Dec 9. 78. Mr. Dec N. H. Savage
A. P. the next Saturday 21st Inst.
21 Dec. 78. Denied
9 Otto. 309
Oct 9. 1878

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 184.

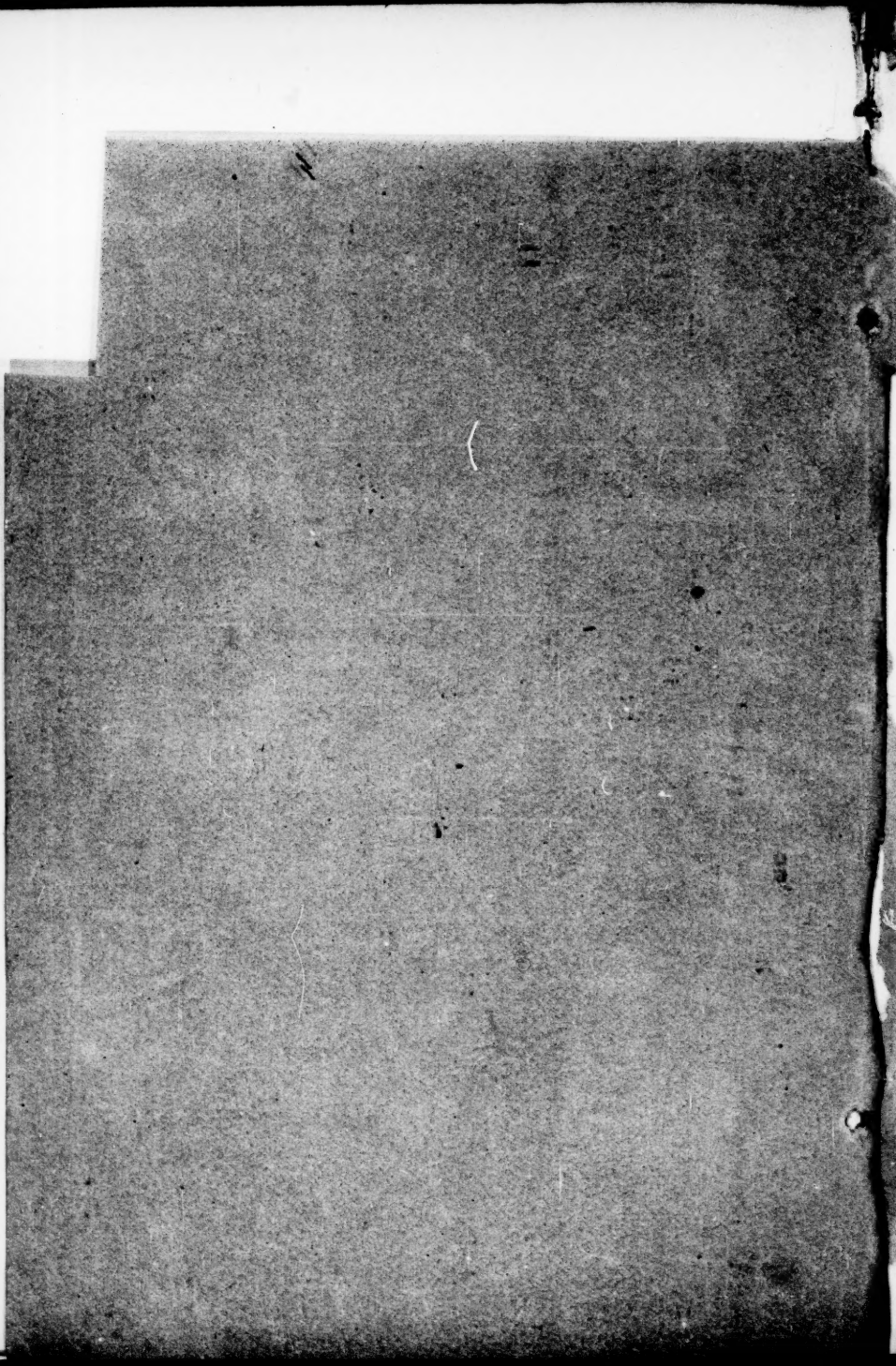
THE NORTHWESTERN UNIVERSITY, PLAINTIFF IN ERROR,

vs.

THE PEOPLE, EX REL. HENRY B. MILLER, COUNTY TREASURER, COOK COUNTY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

FILED OCTOBER 4, 1876.



SUPREME COURT OF THE UNITED STATES.

No. 184.

THE NORTHWESTERN UNIVERSITY, PLAINTIFF IN ERROR,

vs.

THE PEOPLE, EX REL. HENRY B. MILLER, COUNTY TREASURER COOK COUNTY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

INDEX.

	Original.	Print.
Writ of errror	1	1
Objections to judgment	5	2
Lists of delinquent lands and lots	21	8
Stipulation	30	11
Act of incorporation	32	12
Order of court	46	17
List of delinquent lots and lands, Cook County	48	17
Judgment of Cook County court	73	34
Appeal to supreme court of State	77	35
Bond	84	38
Clerk's certificate	107	45
Assignment of errors	109	46
Judgment of supreme court	110	46
Opinion	111	47
Judgment, final	120	50
Citation	122	50
Bond	124	51
Certificate of judge	126	52
Assignment of errors	128	53
Clerk's certificate	130	53

court of Cook County, in the State of Illinois, at a term of said court begun and held at the court-house in Chicago, in said county, on the second Monday (being the fourteenth day) of June, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States of America the ninety-ninth.

Court opened by proclamation.

Present thereat, Hon. M. R. M. Wallace, judge of the county court of Cook County; Francis Agnew, sheriff of Cook County.

Attest:

HERMANN LIEB,
Clerk of the County Court of Cook County.

In the matter of the application of Henry B. Miller, county treasurer, and ex-officio collector of the revenue of Cook County, for judgment for the delinquent State, county, town, school, road, and park taxes and assessments levied and assessed upon the lands and lots in the
4 county of Cook and the State of Illinois for the year 1874, and for judgment for the amounts for which land and lots were forfeited to the State of Illinois for unpaid taxes, at the tax-sale for taxes of 1873, and back taxes of 1873 added, together with interest and costs due and unpaid thereon.

In the county court of Cook County.

STATE OF ILLINOIS,
Cook County, ss:

In the matter of the application of H. B. Miller, county treasurer and official collector of the revenue of Cook County, for judgment for the delinquent State, county, town, school, and park taxes, and special assessments levied and assessed upon lands and lots in the county of Cook and the State of Illinois, for the year 1874, belonging to the Northwestern University, a corporation existing under the laws of the State of Illinois, and in the objections to the rendition of such judgment filed in said court by said Northwestern University described and set forth.

5 Be it remembered that on the 18th day of June, 1875, the following objections in writing were filed in said court, by said Northwestern University in the above case, to judgment against the lands and lots in said objections described, for the taxes thereon levied.

In the county court of Cook County.

STATE OF ILLINOIS,
Cook County, ss:

In the matter of the application for judgment of upon the property hereinafter described, by & on the motion of county collector in and for the county of Cook and State of Illinois.

And now comes the Northwestern University, a corporation created by and existing under the laws of the State of Illinois, by Grant Goodrich, its attorney, and objects to judgment against the following described lots, blocks, and pieces of land belonging to said corporation, and any

and either of them, for the taxes mentioned and claimed in the aforesaid application, to wit:

[6] Name of owner.	Part or lot of land.	Sub. lot.	Lot.	Block.	Assessment.	
	VILLAGE OF EVANSTON:					
	Comprising part of secs. 12, 13, and 24, T. 41, range 13; all of secs. 7, 18, and part of 19, T. 41, R. 14 E.					
Northwestern University.	Ex. E. 180 ft.		1	2	1874	$31 36
	" " of No. 90 ft.		2	"		6 52
	Ex. imp		7	"		42 60
	" "		8	"		42 60
	" "		9	"		42 60
	S. 50 ft., W. 180 ft		10	"		42 60
	Ex. S. 50 ft., W. 180 ft		10	"		34 32
	Ex. " " "		"	"	1873	29 68
			11	"	1874	42 60
			"	"	1873	59 96
			12	"	1874	42 60
			"	"	1873	59 96
			1	3	1874	30 18
			2	"	"	30 18
			3	"	"	30 18
			4	"	"	30 18
			5	"	"	30 18
	Ex. E. 180 ft.		7	"		15 13
			11	"		26 63
			12	"		26 63
[7]			13	3		26 63
			14	"		26 63
			13	5	1874	35 04
			14	5		35 04
			15	"		32 67
			16	"		32 67
			17	"		35 04
			18	"		35 04
			7	6		14 24
			8	"		
			9	"		13 29
	Ex. imp		5	7		15 13
	" " 8 & 9		8 & 9	"		25 13
			1	8	1874	28 41
			2	"		28 41
			3	"		26 50
			4	"		26 50
			5	"		26 50
	Ex, imps. 6, 7, 8	9 & 10		"		89 87
			2	10		52 06
			3	"		27 93
			4	"		27 93
			5	"		27 93
	Ex. imp		6 & 7	"		59 12
	" " 5, 6, 7 and	8		15		106 42
	" "		9	"		26 63
			10	"		31 36
[8]	N. ½		2 & 3	16		52 06
	Ex. imp. N. ½		7	"		11 40
	" "		8	"		22 76
	" "		9	"		26 05
	" "		10	"		26 05
	" "		5	17		12 11
	" "		6	"		12 11
	" "		7	"		12 11
	" "		8	"		12 11
			9	"		12 11
			10	"		12 11
			11	"		12 11
	Ex. imp		14	"		9 49
			15	"		9 49
			16	"		9 49
			17	"		9 49
			18	"		9 49
			19	"		9 49
	Ex. imp. on S. ½		3 & all			
	3, 4, 5, 6, and 7			18		85 16
			8	"		18 08
			9	"		14 23
			10	"		14 23
	Ex. imp. 1, 2, 3, 4, & 5 of (2 & 3) sub.		19			62 40
	" " "		19	5		25 30
	" " sub. lot 2 of lot 8 & 9 "		4	2		37 86
	" " " " "			3		36 93
	" " " " "			4		43 59

Name of owner.	Part or lot of land.	Sub. lot.	Lot.	Block.	Assessment.
[9]	Ex. imp. of lot 8 & 9		5	19	$56 78
	" " on west 30 ft			19	28 41
	" " " east 20 of 50 ft			"	18 95
	" " 10, 11, & 12			20	131 00
	" "			23	219 33
	Sub. lot 6 of lot 4, 5, & 6, ex. imp			25	70 38
	Sub. lot 1, 2, 3, 4, 5, 6, & 7 of lots 11 & 12, ex. imp			26	84 80
	Ex. imp		7 & 8	27	56 19
	" " sub. lot 1, of		11 & 12	"	46 74
	" " " " 2 "		"	"	38 44
	" " " " 3 "		"	"	34 04
	" " " " 4 "		"	"	59 73
	Ex. imp			28	66 23
	" "		7	29	17 75
	" "		8	"	17 75
	" "		9	"	17 75
	" "		10	"	17 75
	" "		11 & 12	"	35 48
	" "		5	31	23 67
	" "		6	"	23 67
	" "		7	"	23 67
	" "		8	"	23 67
	" "		9	"	23 67
			5	32	17 75
			6	"	17 75
			7	"	17 75
[10]			8	32	17 75
			9	"	18 95
			14	33	16 58
			15	"	16 58
			16	"	16 58
			17	"	16 58
			18	"	18 95
	Ex. imps. west ½			34	118 23
			4 & 5	36	37 90
			7	37	16 58
			8	"	16 58
			9	"	16 58
	Ex. imp		12	"	18 95
	" "		13	"	18 95
			8	38	21 31
			9	"	25 30
			10	"	25 30
	Ex. imp		13 & 14	"	43 77
	East 40 ft. of west 100 ft. of		1 & 2	68	23 67
	West 100 ft. of S. 50 ft. of		3	"	
	North ⅓ of			72	14 23
			8	74	13 04
			13	"	18 95
			14	"	11 84
			15	"	11 84
			16	"	11 84
			17	"	11 84
			13	75	22 50
			14	"	14 23
[11]			15	75	14 23
			17	"	14 23
	S. ½ of		20	"	7 72
			7	76	15 40
			8	"	15 40
			11	"	15 40
			12	"	24 60
			20	"	16 32
			21	"	16 32
			5	77	11 84
			6	"	11 84
			7	"	11 84
			8	"	11 84
			9	"	11 84
			10	"	11 84
			11	"	11 84
			12	"	11 84
			13	"	11 84
			17	"	11 84
			18	"	11 84
			19	"	11 84
			20	"	11 84
			1	78	11 84
			2	"	11 84
			3	"	11 84
			4	"	11 84
			5	"	11 84
			6	"	11 84

Name of owner.	Part or lot of land	Sub. lot.	Lot.	Block.	Assessment.
			19	78	..... $13 04
[12]			21	78	..... 13 04
			22	"	..... 13 04
			8	79	..... 11 8
			9	"	..... 11 84
			10	"	..... 11 84
			11	"	..... 13 04
			12	"	..... 13 04
			13	"	..... 11 84
			14	"	..... 11 84
			15	"	..... 11 84
			16	"	..... 11 84
			17	"	..... 11 84
			18	"	..... 11 84
			19	"	..... 11 84
			20	"	..... 11 84
			12	80	..... 11 84
			13	"	..... 11 28
			14	"	..... 11 28
			15	"	..... 11 28
			16	"	..... 11 28
			17	"	..... 11 28
			18	"	..... 11 28
			19	"	..... 11 28
			1, 2, & 3	81	..... 33 84
			8, 9, 10 & 11	"	..... 45 12
			15, 16, 17, & 18	"	..... 45 12
Northwestern University, of that part of S. E. ¼ sec. 7, town. 41, range 14, lying west of Chicago avenue.			1	83	1874 18 75
[13]			2, 3, & 4	83	1874 39 15
	Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 21, 22.	.....	.....	83	..... 148 48
			1	84	..... 8 15
			2	"	..... 8 71
			3	"	..... 8 71
			4	"	..... 9 01
			5	"	..... 9 55
			6	"	..... 10 37
			7	"	..... 8 71
			8	"	..... 7 63
			9	"	..... 7 63
			10	"	..... 5 45
			11	"	..... 7 63
			12	"	..... 7 63
			13	"	..... 7 63
			14	"	..... 7 63
			15	"	..... 7 63
			16	"	..... 7 63
			17	"	..... 7 63
			18	"	..... 7 63
			19	"	..... 7 63
			20	"	..... 7 63
			1	85	..... 8 71
			2	"	..... 8 71
			3	"	..... 8 71
			4	"	..... 8 71
			7	"	..... 7 38
[14]			8	85	..... 7 38
			9	"	..... 7 38
			10	"	..... 7 38
			11	"	..... 7 38
			12	"	..... 7 38
			13	"	..... 7 38
			14	"	..... 7 38
			15	"	..... 7 38
			16	"	..... 7 38
			17	"	..... 7 38
			18	"	..... 7 38
			19	"	..... 7 38
			20	"	..... 7 38
			1	86	..... 8 70
			2	"	..... 8 70
			3	"	..... 8 70
			4	"	..... 8 70
			5	"	..... 8 70
			6	"	..... 8 70
			7	"	..... 7 38
			8	"	..... 7 38
			9	"	..... 7 38
			10	"	..... 7 38
			11	"	..... 7 38
			12	"	..... 7 38

Name of owner.	Part or lot of land.	Sub. lot.	Lot.	Block.	Assessment.	
			13	86	.....	$7 38
			14	"	.....	7 38
			15	"	.....	7 38
			16	"	.....	7 38
[15]			17	86	.....	7 38
			18	"	.....	7 38
			19	"	.....	7 38
			20	"	.....	7 38
			1	87	.....	7 38
			2	"	.....	7 92
			3	"	.....	7 92
			4	"	.....	7 92
			5	"	.....	7 92
			6	"	.....	8 50
			7	"	.....	8 50
			8	"	.....	6 54
			9	"	.....	6 54
			10	"	.....	6 54
			11	"	.....	6 54
			12	"	.....	6 54
			13	"	.....	6 54
			14	"	.....	6 54
			15	"	.....	6 54
			16	"	.....	6 54
			17	"	.....	6 54
			18	"	.....	6 54
			19	"	.....	6 54
			20	"	.....	6 54
			21	"	.....	6 54
			22	"	.....	6 54
			1	88	.....	7 08
			2	"	.....	7 08
			3	"	.....	7 08
[14]			4	88	.....	7 08
			5	"	.....	7 08
			6	"	.....	7 08
			7	"	.....	7 08
			8	"	.....	5 99
			9	"	.....	5 99
			10	"	.....	5 99
			11	"	.....	5 99
			12	"	.....	5 99
			13	"	.....	5 99
			14	"	.....	5 99
			15	"	.....	5 99
			16	"	.....	5 99
			17	"	.....	5 99
			18	"	.....	5 99
			19	"	.....	5 99
			20	"	.....	5 99
			21	"	.....	5 99
			22	"	.....	5 99
			1	89	.....	6 54
			2	"	.....	6 54
			3	"	.....	6 54
			4	"	.....	6 54
			5	"	.....	6 54
			6	"	.....	6 54
			7	"	.....	6 54
			8	"	.....	5 45
			9	"	.....	5 45
			10	"	.....	5 45
[17]			11	89	.....	5 45
			12	"	.....	5 45
			13	"	.....	5 45
			14	"	.....	5 45
			15	"	.....	5 45
			16	"	.....	5 45
			17	"	.....	5 45
			18	"	.....	5 45
			19	"	.....	5 45
			20	"	.....	5 45
			21	"	.....	5 45
			22	"	.....	5 45
University sub. of that part of the N. ¼ of the S. ½ of the S. W. ¼ of sec. 7, town. 41, range 14 east, 3 p. m., lying east of the center of Sherman avenue, in the town of Evanston, produced north also a strip of land 251 ft. deep east and west, lying west and adjoining the north ½ of the above described land.			1	92	.....	5 99
			2	"	9.45	15 44
					1873	
			"	"	5.99	
					1874	

Name of owner.	Part or lot of land.	Sub. lot.	Lot.	Block.	Assessment.
Northwestern University, that part west of Sherman avenue & south of Noyes street, sec. 7, town. 41, range 14, 8 acres.		.....	.....	.....	122 16
[18] Assessor's subdivision of sec. 7, T. 41, R. 14, N. W. University ex. land subdivided as Blks. 90, 91, & 92.		.....	.....	.....	479 82
Geo. Smith, sub. south sec. Wilamette reservation University, sub. of 21, 22, & S. ½ 20.			13	103	
			14	"	
			15	"	
			16	"	
			17	"	
			18	"	
			19	"	
			20	"	15 44
Geo. Smith, subdivision of the S. part of the Archege Willmette res. lot 17.					
Except west $\frac{444}{1000}$ acres, Lot 18.	$15\frac{56}{100}$ ac. $20\frac{56}{100}$ ac.				
WILLMETTE VILLAGE.					
Lot 1 to 26. block 13, $1.61 each		.....	.....	.....	41 86
" 15, 16, 17, 18, " 15, $2.38 "		.....	.....	.....	9 52
" 14, 15, " 16, 2.00 "		.....	.....	.....	4 00

19 Which said lots, blocks, lands, and pieces of lands belonged to and were owned by said Northwestern University at the time said taxes were levied on the same, and is still owned by said Northwestern University, for the following reasons, to wit:

1st. Because said taxes were levied without authority of law.

2nd. Because no proper notice of application for judgment against the same has been made, and no proper return of the collector of taxes or application for judgment has ever been made.

3d. Because by the terms and provisions of the charter of incorporation enacting said corporation, passed by the legislature of the State of Illinois, approved on the 25th day of January, A. D. 1851, and as amended by the act of the legislature of the State of Illinois approved February 14th, A. D. 1855, all property of whatever kind or description belonging to or owned by said corporation was declared to be forever free from taxation for any and all purposes whatever.

4th. Because by the terms of the charter of said Northwestern University, and the amendments thereto, above referred to, the State of Illinois contracted with said corporation that from and after the passage of said act amending said charter all property belonging to or owned by said corporation, of whatever kind and description, should be forever free from taxation for any and all purposes, which said
20 act of incorporation, and said amendments thereto, were accepted by said corporation, and are now and *will* at the time of the levy of said taxes in full force, and said taxes were levied without the assent of said corporation, and in violation of said act of incorporation and the amendment thereto. And said corporation further says that all the lots and lands owned by its at the time of the levy of said taxes did not, nor do they now, equal the quantity of lands limited in said charter as the amount authorized to be held and owned by said corporation at any one time. And said corporation also says the income and proceeds derived from said lands and real estate have been and are applied to the benefit of an institution of learning, and for the uses contemplated in said act of incorporation, and the amendments thereto, and to no other or different use whatever.

5th. And said corporation further says that since the granting of said act of incorporation, and the amendment thereto, exempting its property

from taxation, large amounts of money and property have been donated to said incorporation by individuals to promote the objects contemplated by said act of incorporation, and for the support and maintainance of such an institution of learning as is therein referred to, and that such
21 donations were, to some extent, induced by said provision of the amendment to said charter exempting its property from taxation.

GRANT GOODRICH,
Att'y for Northwestern University.

Cook County delinquent tax-list.

OFFICE OF THE COUNTY TREASURER, AND EX-OFFICIO COUNTY COLLECTOR, COOK COUNTY, ILLINOIS,
Chicago, May 21st, 1875.

The following list, the caption of which is "list number one," is a list of delinquent lands and lots in the county of Cook and State of Illinois upon which remain due and unpaid the taxes and assessments levied and assessed for the year 1874, and upon which remain due and unpaid the amounts for which said property was forfeited to the State of Illinois for unpaid taxes at the tax-sale for the taxes of 1873, together with interest at 10 per cent., and cost thereon, and upon which remains due and unpaid back taxes of 1873 added (embracing only the delinquent taxes and special assessments, together with the interest and cost thereon, if any, contained and set forth in the collector's books, with the
22 warrants attached thereto issued by the county clerk of Cook County, State of Illinois, for the year 1874, which now remains due and unpaid), together with the names of the owners thereof, so far as known, and the total amount due and unpaid on each tract and lot.

EXPLANATORY.—In the following list the amounts set down to the right of the figures 1873, in the column headed "year," are the amounts for which such property was forfeited to the State at the tax-sale for taxes of 1873, together with 10 per cent. interest and cost due thereon, and back taxes of 1873 due thereon, if any. The amounts set down to the right of the figures 1874, in the column headed "year," are the amounts of taxes due and unpaid for the year 1874. The figures in the column headed "total tax," represents the total amount of taxes due thereon, respectively.

The next succeeding list, the caption of which is "list number two," is a list of delinquent lands and lots in the towns of South Chicago, Hyde Park, and Lake, in said county, upon which remains due and unpaid the third installment of a special assessment levied and assessed by the South Park commissioners and confirmed by the order of the circuit court of Cook County, together with the names of the owners,
23 so far as known, and the total amount of such installment due and unpaid on each tract and lot, according to the description contained in the delinquent return made to the county collector by the South Park commissioners.

The figures in said last mentioned "list number two," in the column headed "dols. & cts.," represent the amount of the third installment of the said South Park assessment, which became due and payable on the first day of September, A. D. 1874, and the amounts bear interest, respectively, at the rate of seven per cent. per annum, from the second day of September, A. D. 1872, until the day of payment.

Public notice is hereby given that the undersigned, county treasurer, and ex-officio county collector of Cook County, State of Illinois, will

apply to the county court of said county, at the June term thereof, to commence on the second Monday in June, A. D. 1875, being the fourteenth (14th) day of June, A. D. 1875, for judgment against the delinquent lands, lots, and real estate described in the foregoing list, the caption of which is "list number one," for the taxes and assessments
for the year A. D. 1874, and costs due thereon, and for the amounts
24 for which such property was forfeited to the State of Illinois for
unpaid taxes and assessments, if any, at the tax-sale for State and county taxes of 1873, together with interest at ten per cent. and costs due thereon, and for back taxes for the year 1873 added, and costs due thereon, and for an order to sell said lands, lots, and real estate for the satisfaction thereof. And, also, that on the seventh Monday next succeeding the second Monday in June, A. D. 1875, being the second (2d) day of August, A. D. 1875, at the hour of ten (10) o'clock a. m., all the lands, lots, and real estate described in the said "list number one," against which judgment shall be rendered, and for the sale of which an order shall be made, will be exposed to public sale, at the building where the county court is held in said county, to wit, the county building situate on the northwest corner of Dearborn and Michigan streets, in the city of Chicago, in said county of Cook, for the amount of taxes, assessments, interest, and costs due thereon.

And public notice is hereby also given that the undersigned, county treasurer, and ex-officio county collector of Cook County, State of Illinois, will apply to the county court aforesaid, at the June term thereof,
to commence on the second Monday in June, A. D. 1875, being
25 the fourteenth (14th) day of June, A. D. 1875, for judgment against
the delinquent lands, lots, and real estate, as described in the foregoing list, the caption of which is "list number two," for the amount due on the third installment of the special assessment levied and assessed by the South Park commissioners upon lands situated in the towns of South Chicago, Hyde Park, and Lake, in Cook County, State of Illinois, and confirmed by the circuit court of said county of Cook, and the interest and costs due thereon, and for an order to sell said lands, lots, and real estate for the satisfaction thereof. And that on the said second (2d) day of August, 1875, at the hour of ten (10) o'clock a. m., all the lands, lots, and real estate, as described in said "list number two," against which judgment shall be rendered for such third installment, interest, and costs, and for the sale of which an order shall be made, will be exposed to public sale, at the building where the county court is held in said county, to wit, the county building situate on the northwest corner of Dearborn and Michigan streets, in the city of Chicago, in the said county of Cook, for the amount of said third installment, interest, and costs due thereon.

Dated, Chicago, May 21, 1875.

HENRY B. MILLER,
County Treasurer, and ex officio County Collector of Cook County, Illinois.

26 I, William Penn Nixon, publisher of the Inter Ocean, do hereby certify that the annexed and foregoing list of delinquent lands and lots, headed, respectively, "list number one" and "list number two," with the notice thereto attached, were published and advertised once in the Inter-Ocean, a daily newspaper published in Cook County, Illinois, and the whole of said advertisement was contained in one edition of said newspaper, the said newspaper being a newspaper of general circulation throughout said county, and that the date of the first paper containing the same was the 21st day of May, A. D. 1875, and that as said list and

pied by buildings or other direct appliances of education, is taxed or included in the lands and lots on which judgment is as aforesaid asked.

JOHN M. ROUNTREE,
Att'y for People.
JAMES P. ROOT,
Att'y for Village of Evanston.
GRANT GOODRICH,
Att'y for N. W. University.

The said objector, the Northwestern University, also offered in evidence the following act of incorporation of said university by the
32 legislature of the State of Illinois, approved January 28th, 1851.

Also the amendment to said act approved February 14th, 1855, and a further amendment of said act approved February 19th, 1867.

Charter.

An act to incorporate the Northwestern University.

Be it enacted by the people of the State of Illinois, represented in the general assembly:

SECTION I. That Richard Haney, Philo Judson, S. P. Keys, and A. E. Phelps, and such persons as shall be appointed by the Rock River Annual Conference of the Methodist Episcopal Church, to succeed them in said office; Henry Summers, Elihu Springer, David Brooks, and Elmore Yocum, and such persons as shall be appointed by the Wisconsin annual conference of said church to succeed them; four individuals, if chosen, and such persons as shall be appointed to succeed them by the Michigan annual conference of said church; four indi-
33 viduals, if chosen, and such persons as shall be appointed to succeed them by the North Indiana annual conference of said church; H. W. Reed, J. J. Stewart, D. N. Smith, and George M. Teas, and such persons as shall be appointed to succeed them by the Iowa annual conference of said church; four individuals, if chosen, and such persons as shall be appointed to succeed them by the Illinois annual conference of said church; A. G. Sherman, Grant Goodrich, Andrew J. Brown, John Evans, Orrington Lunt, J. K. Botsford, Joseph Kettlestrings, Geo. T. Foster, Eri Reynolds, John McArnold, Absalom Funk, and E. B. Kingsley, and such persons, citizens of Chicago or its vicinity, as shall be appointed by the board of trustees hereby constituted to succeed them, be, and they are hereby, created and constituted a body politic and corporate, under the name and style of the Trustees of the Northwestern University, and henceforth shall be styled and known by that name and style, to remain and have perpetual succession, with power to sue and be sued, plead and be impleaded, to acquire, hold, and convey property, real, personal, and mixed, in all lawful ways, to have and use a common seal, and to alter
34 the same at pleasure, to make and alter from time to time such by-laws as they may deem necessary for the government of said institution, its officers and servants, provided such by-laws are not inconsistent with the constitution and laws of this State and of the United States, and to confer on such persons as may be considered worthy such academical or honorary degrees as are usually conferred by similar institutions.

SECTION II. The term of office of said trustees shall be four years; but that of one member of the board for each conference enjoying the

appointing power by this act, and the term of three of the members whose successors are to be appointed by the board hereby constituted shall expire annually, the term of each member of the board herein named to be fixed by lot at the first meeting of said board, which board shall, in manner above specified, have perpetual succession, and shall hold the property of said institution solely for the purposes of education, and not as a stock for the individual benefit of themselves or any contributor to the endowment of the same; and no particular religious faith shall be required of those who become students of the institution.

Nine members shall constitute a quorum for the transaction of
35 any business of the board except the appointment of president or professor, or the establishment of chairs in said institution, and the enactment of by-laws for its government, for which the presence of a majority of the board shall be necessary.

SECTION III. Said annual conferences of the Methodist Episcopal Church, under whose control and patronage said university is placed, shall each also have the right to appoint annually two suitable persons, members of their own body, visitors to said university, who shall attend the examination of students, and be entitled to participate in the deliberation of the board of trustees and enjoy all the privileges of members of said board, except the right to vote.

SECTION IV. Said institution shall remain located in or near Chicago, Cook County, and the corporators and their successors shall be competent in law or equity to take to themselves, in their said corporate name, real, personal, or mixed estate, by gift, grant, bargain, and sale, conveyance, will, devise, or bequest, by any person or persons whomsoever; and the same estate, whether real, personal, or mixed, to grant, bargain, sell, convey, devise, let, place out at interest, or other-
36 wise dispose of the same for the use of said institution, in such manner as to them shall seem most beneficial to said institution. Said corporation shall faithfully apply all the funds collected, or the proceeds of the property belonging to said institution, according to their best judgment, in erecting and completing suitable buildings, supporting necessary officers, instructors, and servant, and procuring books, maps, charts, globes, and philosophical, chemical, and other apparatus necessary to the success of the institution, and do all other acts usually performed by similar institutions that may be deemed necessary or useful to the success of said institution, under the restrictions herein imposed: Provided, nevertheless, That in case any donation, devise, or bequest shall be made for particular purposes, accordant with the designs of the institutions, and the corporation shall accept the same, every such donation, devise, or bequest shall be applied in conformity with the express conditions of the doners or devisors: Provided, further, That said corporation shall not be allowed to hold more than two thousand acres of land at any one time, unless the said corporation shall have re-
37 ceived the same by gift, grant, or devise; and in such case they shall be required to sell or dispose of the same within ten years from the time they shall acquire such title, and on failure to do so such lands over and above the forenamed two thousand acres shall revert to the original donor, grantor, devisor, or their heirs.

SECTION V. The treasurer of the institution and all other agents, when required, before entering upon the duties of their appointment, shall give bond for the security of the corporation in such penal sums and with such securities as the corporation shall approve, and all process against the corporation shall be by summons, and the serving of the

same shall be by leaving an attested copy thereof with the treasurer at least sixty days before the return day thereof.

SECTION VI. The corporation shall have the power to employ and appoint a president or principal of said institution, and all such professors or teachers and all such servants as may be necessary, and shall have power to displace any or such of them as the interest of the institution may require, to fill vacancies which may happen by death, resignation, or otherwise, among said officers and servants, and to prescribe and direct the course of study to be pursued in said institution.

38 SECTION VII. The corporation shall have power to establish departments for the study of any and all the learned and liberal professions in the same; to confer the degree of doctor in the learned arts and sciences and belles-lettres, and to confer such other academical degrees as are usually conferred by the most learned institutions.

SECTION VIII. Said corporation shall have power to institute a board of competent persons, always including the faculty, who shall examine such individuals as may apply, and if such applicants are found to possess such knowledge pursued in said institutions as in the judgment of said board renders them worthy, they may be considered graduates in the course, and shall be entitled to diplomas accordingly, on paying such fee as the corporation shall affix, which fee, however, shall in no case exceed the tuition bills of the full course of studies in said institution; said examination board may not exceed the number of ten, three of whom may transact business, provided one be of the faculty.

SECTION IX. Should the corporation at any time act contrary to the provisions of this charter, or fail to comply with the same, upon

39 complaint being made to the circuit court of Cook County a scire facias shall issue, and the circuit attorney shall present in behalf of the people of the State for forfeiture of this charter.

This act shall be a public act, and shall be construed liberally in all courts for the purposes herein expressed.

SIDNEY BREESE,
Speaker of the House of Representatives.
WILLIAM McMURTEY,
Speaker of the Senate.

Approved, Jan. 28th, 1851.

A. C. FRENCH, *Governor.*

Amendments to charter.

An act to amend an act entitled "An act to incorporate the 'Northwestern University,'" approved Jan. 28th, 1851.

Be it enacted by the people of the State of Illinois, represented in the general assembly:

SEC. I. That John L. Smith, Aron Wood, Luther Taylor, and W'm Graham, and such other persons as shall be elected to succeed them by the Northwest Indiana Conference of the Methodist Episcopal

40 Church, be, and they are hereby, constituted members of the board of trustees of the Northwestern University.

SEC. II. No spirituous, vinous, or fermented liquors shall be sold, under license or otherwise, within four miles of the location of said university, except for medicinal, mechanicals, and sacramental purposes, under a penalty of twenty-five dollars for each offence, to be recovered before any justice of the peace of said county of Cook: Provided, That

so much of this act as relates to the sale of intoxicating drinks within four miles may be repealed by the general assembly whenever they may think proper.

SEC. III. The said incorporation shall have power to take, hold, use and manage, lease, and dispose of all such property as may in any manner come to said corporation charged with any trust or trusts, in conformity with such trusts and direction, and so execute all such trusts as may be confided to it.

SEC. IV. That all property, of whatever kind or description, belonging to or owned by said corporation, shall be forever free from taxation for any and all purposes.

SEC. V. This act shall be public and take effect from and after its passage.

THOMAS J. TURNER,
Speaker of the House of Representatives.

41 G. KOERNER,
Speaker of the Senate.

Approved, Feb. 14th, 1855.

J. A. MATTESON, *Governor.*

UNITED STATES OF AMERICA,
State of Illinois:

I, Alexander Stearm, secretary of state for the State of Illinois, do hereby certify that the foregoing is a true and correct copy of an enrolled law now on file at my office.

In testimony whereof I have hereunto set my hand and caused the great seal of State to be affixed.

Done at the city of Springfield, this 21st day of March, 1855.

[L. S.] ALEXANDER STEARM,
Secretary of State.

Amendments to charter.

Be it enacted by the legislature of the State of Illinois:

SEC. I. That the annual conferences of the Methodist Episcopal
42 Church which now are, or may hereafter be, authorized to elect or appoint trustees of said university, shall hereafter elect only two trustees each, who shall also be and perform the duties of visitors to said institution, and the place of the two trustees last appointed by each conference is hereby vacated. The trustees elected by each conference shall hereafter hold their office for two years, and until their successors are chosen, the term of one elected by each of them expiring annually. In case any conference holding authority to elect trustees shall now or hereafter be divided into two or more annual conferences, they shall each have authority to elect trustees. On the request of the board of trustees made at any regular meeting any such annual conference may elect trustees as herein provided.

SEC. II. Any annual conference electing trustees as herein provided having at any time refused to elect successors thereto, or resolved to discontinue or refuse its patronage to said institution, will authorize the board of trustees, by a vote of a majority thereof, at any regular meeting, to declare vacant the place of all trustees appointed by such conference, and its right to appoint trustees shall thereupon cease.

43 SEC. III. Any chartered institution of learning may become a department of this university by agreement between the boards of trustees of the two institutions.

SEC. IV. This act shall take effect and be in force from and after its passage.

Approved, Feb'r 16th, 1861. RICHARD YATES,
Governor.

A true copy. Attest:

O. M. HATCH,
Secretary of State.

An act to amend an act entitled "An act to incorporate the Northwestern University, and the several acts amendatory thereof."

SEC. 1. Be it enacted by the people of the State of Illinois represented in the general assembly, That the name of that corporation created by act of the general assembly of the State of Illinois approved on the 28th day of January, 1851, under the name of the "Trustees of the Northwestern University," be, and the same is hereby, changed to "Northwestern University," and by that name shall be hereafter known, and by such name shall have and exercise all the powers and immunities conferred on said corporation by said act of incorporation
44 and all acts amendatory thereof.

2nd. In addition to the number of trustees heretofore provided by law, the board may elect any number not exceeding twenty-four, and without reference to their several places of residence, and a majority of the whole board shall be members of the Methodist Episcopal Church.

SEC. 3d. No greater number shall be required to constitute a quorum than has been heretofore required by law: Provided, That in all called meetings of the board the object of the meeting shall be particularly specified in the notice to be previously given to each trustee.

4th. This act shall be a public act, and be in force from and after its passage.

Approved, Feb'y 19, 1867.

Recorded in Private Laws, page 6, 1867.

Which was all the evidence offered in the above cause.

And thereupon the said court overruled the said objections of said Northwestern University, and rendered judgment against the lands and lots described and referred to in said objections for the taxes assessed thereon; to which decision of the court, in overruling said objec-
45 tions and rendering said judgment, the Northwestern University, objector herein, then and there excepted.

And inasmuch as the said facts do not appear of record, the said Northwestern University prays the court that this its bill of exceptions be signed and sealed by said court, which is now here done in open court.

[SEAL.] M. R. M. WALLACE,
Co. Judge.

STATE OF ILLINOIS,
County of Cook, ss:

Pleas before the honorable Martin R. M. Wallace, judge of the county court of Cook County, in the State of Illinois, at a term of said court begun and held at the court-house in Chicago, in said county, on the second Monday, being the fourteenth day of June, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States of America the ninety-ninth.

Court opened by proclamation.

Present thereat: Hon. M. R. M. Wallace, judge of the county court of Cook County; Francis Agnew, sheriff of Cook County.

Attest: HERMANN LIEB,
Clerk of the County Court of Cook County.

46 *Rule to file objections.*

In the matter of the application of Henry B. Miller, county treasurer, and ex-officio collector of the revenue of Cook County, for judgment for the delinquent State, county, town, school, road, and park taxes, and assessments levied and assessed upon the lands and lots in the county of Cook and State of Illinois, for the year 1874, and for judgment for the amounts for which lands and lots were forfeited to the State of Illinois for unpaid taxes, at the tax sales for taxes for 1873, and back taxes of 1873 added, together with interest and costs due and unpaid thereon.

And now on this day comes into court Henry B. Miller, county treasurer and ex-officio collector of the revenue of Cook County, by Charles H. Reed, esquire, State's attorney, on behalf of the people of the State of Illinois, and also by John M. Rountree, esquire, county attorney of Cook County, and applies to the court for judgment for the delinquent State, county, town, school, road, and park taxes and assessments
47 levied and assessed upon the lands and lots in the county of Cook and State of Illinois, for the year 1874, and for judgment for the amounts for which lands and lots were forfeited to the State of Illinois for unpaid taxes at the tax sales for taxes of 1873, and back taxes of 1873 added, together with interest and costs due and upaid thereon; the delinquent list of all said aforesaid delinquent taxes and assessments, together with the amounts of said several taxes, assessments, interest, and costs remaining due and unpaid, being contained in thirty-six volumes numbered from one to thirty-six inclusive, and hereinafter following.

And it appearing to the court, and the court finding from evidence presented that due notice, as required by law, has been given of said application for judgment, it is ordered by the court that any and all persons desiring to object to the rendition of such judgment file their objections thereto in writing by 10 o'clock a. m. on Monday, the 21st day of June, instant.

M. R. M. WALLACE, *Judge.*

48 Record of a list of delinquent lands and lots in the county o Cook and State of Illinois upon which remain due and unpaid the taxes and assessments levied and assessed for the year 1874, and upon which remain due and unpaid the amounts for which said property was forfeited to the State of Illinois for unpaid taxes at the tax-sale for taxes of 1873, together with interest at ten per cent. and cost thereon and upon which remain due and unpaid back taxes of 1873, added (embracing only the delinquent taxes and special assessments together with the interest and cost thereon, if any, contained and set forth in the collectors' books, with the warrants attached thereto, issued by the county clerk of Cook County, State of Illinois, for the year 1874, which now remain due and unpaid); and showing the names of the owners so far as knowing the proper description of the lands and lots, the valuation on which the taxes are extended, the amount of each kind of tax and assessment, and interest and cost, if any, against each parcel of land or lot, and the total amount charged against each parcel of land or lot respectively; all of which taxes and special assessments so levied and assessed for said years any hereinafter set forth and ennumerated and the cost and interest thereon, Henry B. Miller, county treasurer, and ex-officio county collector of the taxes of Cook County, State of Illinois, has been unable to collect and which said list is this day reported to the county clerk of said county by said county collector and duly filed in the office of said county clerk

49 *The following is a correct record of the county collector's delinquent list of taxable real Illinois, upon which the taxes for the year* 1874, *together with the addition of "back*

Names.	Description. Part of section, lot, or block.	Section.	Town.	Range.	Lot.	Sub-lot.	Lot.	Block.	Acres.	Back taxes.	Forfeited to State.	Valuation as equalized by State board of equalization.
VILLAGE OF EVANSTON.										*Year.*	*Year.*	
	Comprising part of sec. 12, 13, and 24.		41	13								
	All of sec. 7, 18, and part of 19		41	14								
N. W. University	Ex. E. 180 ft		1	2								3954
"	Ex. E. 180 ft., N. 20 ft., and Ex. improve'ts.		2	"								198
"			7	"								1, 296
"			8	"								1, 296
"			9	"								1, 296
"	S. 50 ft. of W. 180 ft		10	"								1, 296
"	Ex. S. 50 ft. and W. 180 ft		10	"								648
											1873	
"			11	"								1, 296
											1873	
"			12	"								1, 296
											1873	
"			1	3								918
"			2	"								918
"			3	"								918
"			4	"								918
"			5	"								918
"	Ex. E. 180 ft		7	"								460
"			11	"								810
"			12	"								810
"			13	"								810
"			14	"								810
[50]												
N. W. University							13	5				1, 066
"							14	"				1, 066
"							15	"				994
"							16	"				994
"							17	"				1, 066
"							18	"				1, 066
"							7	6				432
"	Ex. improvements on						8 & 9	"				404
"	Ex. improvements						5	7				460
"	Ex. imp'ts						8 & 9	"				764
							1	8				864
							2	"				864
							3	"				806
							4	"				806
							5	"				806
N. W. University	Ex. imp'ts						6, 7, 8, 9, & 10	"				2, 736
"							2	10				1, 584
"							3	"				850
"							4	"				850
[51] "							5	"				850
N. W. University	Ex. impts						6 & 7	10				1, 800
"	Ex. impts. on lots 5, 6, 7, and						8	15				3, 240
"	" "						9	"				810
"							10	"				954
"							2	16				1, 584
"	N. ½						3	"				
"	Ex. impts. on N. ½						7	"				346
"	" "						8	"				692
"	" "						9	"				792
"	" "						10	"				792
"	" "						5	17				368
"	" "						6	"				368

estate, lands, lots, and blocks, in the town of Evanston, in the county of Cook and State of taxes" and "forfeitures to State" remaining due and unpaid, as therein set forth.

State tax.	County tax.	Town tax.	School district.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeitures.	Totals.	Costs.	Total amount of judgment.	Remarks.
			No.											
$2 29	$3 82	....	....	$8 69	$15 37	$0 96	.....	$31 36	.....	.....	$31 36	$0 40	$31 76	Appealed.
48	80	$0 05	....	1 81	3 18	20	.....	6 52	.....	.....	6 52	40	6 92	Appealed.
3 12	5 19	32	....	11 80	20 87	1 30	.....	42 60	.....	.....	42 60	40	43 00	
3 12	5 19	32	....	11 80	20 87	1 30	.....	42 60	.....	.....	42 60	40	43 00	
3 12	5 19	32	....	11 80	20 87	1 30	.....	42 60	.....	.....	42 60	40	43 00	
3 12	5 19	32	....	11 80	20 87	1 30	.....	42 60	.....	.....	42 60	40	43 00	
1 56	2 60	16	....	5 91	10 44	65	.....	21 32	.....	.....	51 00	53	51 53	Appealed.
2 20	3 03	34	....	5 95	16 54	1 52	.....	.....	$0 10	$29 68	.....	.....	.....	
3 12	5 19	32	....	11 80	20 87	1 30	.....	42 60	.....	.....	101 86	53	102 39	
4 40	6 06	68	....	11 90	33 08	3 04	.....	.....	10	59 26	.....	.....	.....	
3 12	5 19	32	....	11 80	20 87	1 30	.....	42 60	.....	.....	101 86	53	102 39	
4 40	6 06	68	....	11 90	33 08	3 04	.....	.....	10	59 26	.....	.....	.....	
2 21	3 68	22	....	8 36	14 78	92	.....	30 18	.....	.....	30 18	40	30 58	
2 21	3 68	22	....	8 36	14 78	92	.....	30 18	.....	.....	30 18	40	30 58	
2 21	3 68	23	....	8 36	14 78	92	.....	30 18	.....	.....	30 18	40	30 58	Appealed.
2 21	3 68	23	....	8 36	14 78	92	.....	30 18	.....	.....	30 18	40	30 58	
2 21	3 68	23	....	8 36	14 78	92	.....	30 18	.....	.....	30 18	40	30 58	
1 11	1 84	11	....	4 19	7 41	46	.....	15 13	.....	.....	15 13	40	15 53	Appealed.
1 95	3 24	20	....	7 38	13 05	81	.....	26 63	.....	.....	26 63	40	27 03	
1 95	3 24	20	....	7 38	13 05	81	.....	26 63	.....	.....	26 63	40	27 03	
1 95	3 24	20	....	7 38	13 05	81	.....	26 63	.....	.....	26 63	40	27 03	Appealed.
1 95	3 24	20	....	7 38	13 05	81	.....	26 63	.....	.....	26 63	40	27 03	
2 56	4 27	26	....	9 71	17 17	1 07	.....	35 04	.....	.....	35 04	40	35 44	
2 56	4 27	26	....	9 71	17 17	1 07	.....	35 04	.....	.....	35 04	40	35 44	
2 39	3 98	29	....	9 05	16 01	1 00	.....	32 67	.....	.....	32 67	40	33 07	
2 39	3 98	24	....	9 05	16 01	1 00	.....	32 67	.....	.....	32 67	40	33 07	Appealed.
2 56	4 27	26	....	9 71	17 17	1 07	.....	35 04	.....	.....	35 04	40	35 44	
2 56	4 27	26	....	9 71	17 17	1 07	.....	35 04	.....	.....	35 04	40	35 44	
1 05	1 73	11	....	3 94	6 97	44	.....	14 24	.....	.....	14 24	40	14 64	
97	1 62	10	....	3 68	6 51	41	.....	13 29	.....	.....	13 29	80	14 09	Appealed.
1 11	1 84	12	....	4 19	7 41	46	.....	15 13	.....	.....	15 13	40	15 53	
1 84	3 06	19	....	6 96	12 31	77	.....	25 13	.....	.....	25 13	80	25 93	
2 08	3 46	21	....	7 87	13 92	87	.....	28 41	.....	.....	28 41	40	28 81	
2 08	3 46	21	....	7 87	13 92	87	.....	28 41	.....	.....	28 41	40	28 81	
1 94	3 23	20	....	4 34	12 98	81	.....	26 50	.....	.....	26 50	40	26 90	Appealed.
1 94	3 23	20	....	4 34	12 98	81	.....	26 50	.....	.....	26 50	40	26 90	
1 94	3 23	20	....	4 34	12 98	81	.....	26 50	.....	.....	26 50	40	26 90	
6 57	10 95	69	....	24 90	44 05	2 74	.....	89 87	.....	.....	89 87	2 00	91 87	
3 81	6 34	39	....	14 42	25 51	1 59	.....	52 06	.....	.....	52 06	40	52 46	
2 04	3 40	21	....	7 74	13 69	85	.....	27 93	.....	.....	27 93	40	28 33	Appealed.
2 04	3 40	21	....	7 74	13 69	85	.....	27 93	.....	.....	27 93	40	28 33	
2 04	3 40	21	....	7 74	13 69	85	.....	27 93	.....	.....	27 93	40	28 33	
4 32	7 20	44	....	16 38	28 98	1 80	.....	59 12	.....	.....	59 12	80	59 92	
7 78	12 96	.....	....	29 49	52 17	3 24	.....	106 42	.....	.....	106 42	1 60	107 02	
1 95	3 24	20	....	7 38	13 05	81	.....	26 63	.....	.....	26 63	40	27 03	Appealed.
2 29	3 82	23	....	8 69	15 37	96	.....	31 36	.....	.....	31 36	40	31 76	
3 81	6 34	39	....	14 42	25 51	1 59	.....	52 06	.....	.....	52 06	80	52 86	
84	1 39	08	....	3 15	5 58	35	.....	11 40	.....	.....	11 40	40	11 80	
1 67	2 77	19	....	6 30	11 15	70	.....	22 76	.....	.....	22 76	40	23 16	
1 91	3 17	28	....	7 21	12 76	80	.....	26 05	.....	.....	26 05	40	26 45	
1 91	3 17	20	....	7 21	12 76	80	.....	26 05	.....	.....	26 05	40	26 45	
89	1 48	09	....	3 35	5 93	3	.....	12 11	.....	.....	12 11	40	12 51	
89	1 48	09	....	3 35	5 92	3	.....	12 11	.....	.....	12 11	40	12 51	

The following is a correct record of the county collector's delinquent list of taxable

Names.	Description. Part of section, lot, or block.	Section.	Town.	Range.	Lot	Sub-lot.	Lot.	Block.	Acres.	Back taxes.	Forfeited to State.	Valuation as equalized by State board of equalization.
VILLAGE OF EVANSTON—Cont'd.										*Year.*	*Year.*	
N. W. University ..	Ex. impts. on N. ½	..	..	..	..	..	7	17	.....	.....	.....	368
..	.. .. ..	..	..	..	..	..	8	..	.....	.....	.....	368
..	.. .. ..	..	..	..	..	..	9	..	.....	.....	.....	368
..	.. .. ..	..	..	..	..	..	10	..	.....	.....	.....	368
..	.. .. ..	..	..	..	..	..	11	..	.....	.....	.....	368
..	.. .. ..	..	..	..	..	..	14	..	.....	.....	.....	288
..	.. .. ..	..	..	..	..	..	15	..	.....	.....	.....	288
..	.. .. ..	..	..	..	..	..	16	..	.....	.....	.....	288
[52]												
N. W. University ..	Ex. impts	..	..	..	..	..	17	17	.....	.....	.....	288
..	.. ..	..	..	..	..	..	18	..	.....	.....	.....	288
..	.. ..	..	..	..	..	..	19	..	.....	.....	.....	288
..	Ex. impts. on S. ½ of lot 3, and all lots 4, 5, 6, and.	..	..	..	..	..	7	18	.....	.....	.....	2, 592
..		..	..	..	..	..	8	..	.....	.....	.....	550
N. W. University ..		..	..	..	..	..	9	..	.....	.....	.....	432
..		..	..	..	..	..	10	..	.....	.....	.....	432
..	Ex. impts	..	..	..	..	1 to 5	2 & 3	19	.....	.....	.....	1, 900
..	.. ..	..	..	..	..	..	5	..	.....	.....	.....	770
..	.. ..	..	..	..	..	2	8 & 9	19	.....	.....	.....	1, 152
..	.. ..	..	..	..	..	3	.. ..	..	.....	.....	.....	1, 124
..	.. ..	..	..	..	..	4	.. ..	..	.....	.....	.....	1, 324
..	.. ..	..	..	..	..	5	.. ..	..	.....	.....	.....	1, 728
..	W. 30 ft. (ex. impts.)	..	..	..	..	..	10 & 11	..	.....	.....	.....	864
..	E. 20 ft., W. 50 ft. (ex. impts.)	..	..	..	..	..	10 & 11	..	.....	.....	.....	576
..	Ex. impts	..	..	..	..	..	10, 11, & 12	20	.....	.....	.....	3, 988
..	.. ..	..	..	..	..	..	..	23	.....	.....	.....	6, 678
..	.....	..	..	..	..	6	4, 5, & 6	25	.....	.....	.....	2, 142
[53]	Subdn. of lots	..	..	..	..	..	11 & 12	26	.....	.....	.....	.....
N. W. University ..		..	..	..	..	1	.. ..	..	.....	.....	.....	378
..		..	..	..	..	2	.. ..	..	.....	.....	.....	414
..		..	..	..	..	3	.. ..	..	.....	.....	.....	414
..		..	..	..	..	4	.. ..	..	.....	.....	.....	414
..		..	..	..	..	5	.. ..	..	.....	.....	.....	478
..		..	..	..	..	6	.. ..	..	.....	.....	.....	478
..	Ex. impts	..	..	..	..	7	.. ..	..	.....	.....	.....	504
..	.. ..	..	..	..	..	..	7 & 8	27	.....	.....	.....	1, 710
..	.. ..	..	..	..	..	1	11 & 12	..	.....	.....	.....	1, 422
..	.. ..	..	..	..	..	2	.. ..	..	.....	.....	.....	1, 170
..	.. ..	..	..	..	..	3	.. ..	..	.....	.....	.....	1, 036
..	(Ex. impts) all of	..	..	..	..	4	.. ..	..	.....	.....	.....	1, 818
..	Ex. impts. S. ½ 7 and 8, and all of lots 9, 10, 11, and 12.	..	..	..	..	..	13	28	.....	.....	.....	2, 016
..	Ex. impts	..	..	..	..	..	7	29	.....	.....	.....	540
..	.. ..	..	..	..	..	..	8	..	.....	.....	.....	540
..	.. ..	..	..	..	..	..	9	..	.....	.....	.....	540
..	.. ..	..	..	..	..	..	10	..	.....	.....	.....	540
..	.. ..	..	..	..	..	..	11 & 12	..	.....	.....	.....	1, 080
[54]												
N. W. University ..	Ex. impts	..	..	..	..	..	5	31	.....	.....	.....	720
..	.. ..	..	..	..	..	..	6	..	.....	.....	.....	720
..	.. ..	..	..	..	..	..	7	..	.....	.....	.....	720
..	.. ..	..	..	..	..	..	8	..	.....	.....	.....	720
..	.. ..	..	..	..	..	..	9	..	.....	.....	.....	720
..	.. ..	..	..	..	..	..	5	32	.....	.....	.....	540
..	.. ..	..	..	..	..	..	6	..	.....	.....	.....	540
..	.. ..	..	..	..	..	..	7	..	.....	.....	.....	540

real estate, lands, lots, and blocks in the town of Evanston, &c.—Continued.

State tax.	County tax.	Town tax.	School district.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeiture.	Totals.	Costs.	Total amount of judgment.	Remarks.
			No.											
89	1 48	$0 09	...	$3 35	$5 93	$0 37	.....	$12 11	.....	.....	$12 11	$0 40	$12 51	Appealed.
89	1 48	09	...	3 35	5 93	37	.....	12 11	.....	.....	12 11	40	12 51	
89	1 48	09	...	3 35	5 93	37	.....	12 11	.....	.....	12 11	40	12 51	
89	1 48	09	...	3 35	5 93	37	.....	12 11	.....	.....	12 11	40	12 51	
89	1 48	09	...	3 35	5 93	37	.....	12 11	.....	.....	12 11	40	12 51	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
70	1 16	07	...	2 63	4 64	29	.....	9 49	.....	.....	9 49	40	9 89	
6 23	10 37	63	...	23 59	41 74	2 60	.....	85 16	.....	.....	85 16	2 00	87 16	
1 32	2 20	14	...	5 01	8 86	55	.....	18 08	.....	.....	18 08	40	18 48	
1 04	1 73	11	...	3 94	6 97	44	.....	14 23	.....	.....	14 23	40	14 63	
1 04	1 73	11	...	3 94	6 97	44	.....	14 23	.....	.....	14 23	40	14 63	
4 56	7 60	46	...	17 29	30 59	1 90	.....	62 40	.....	.....	62 40	2 00	64 40	
1 85	3 08	19	...	7 01	12 40	77	.....	25 30	.....	.....	25 30	40	25 70	
2 77	4 61	28	...	10 49	18 55	1 16	.....	37 86	.....	.....	37 86	40	38 26	Appealed.
2 70	4 50	27	...	10 23	18 10	1 13	.....	36 93	.....	.....	36 93	40	37 33	
3 18	5 30	32	...	12 05	21 32	1 33	.....	43 50	.....	.....	43 50	40	43 90	
4 15	6 92	42	...	15 73	27 83	1 73	.....	56 78	.....	.....	56 78	40	57 18	
2 08	3 46	21	...	7 87	13 92	87	.....	28 41	.....	.....	28 41	80	29 21	
1 39	2 31	14	...	5 25	9 28	58	.....	18 95	.....	.....	18 95	80	19 75	
9 58	15 96	96	...	36 30	64 21	3 99	.....	131 00	.....	.....	131 00	1 20	132 20	
16 03	26 72	1 61	...	60 77	107 52	6 68	.....	219 33	.....	.....	219 33	40	219 73	
5 15	8 57	52	...	19 50	34 49	2 15	.....	70 38	.....	.....	70 38	40	70 78	
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	
91	1 52	10	..	3 45	6 09	38	.....	12 45	.....	.....	12 45	40	12 85	
1 00	1 66	10	...	3 77	6 68	42	.....	13 63	.....	.....	13 63	40	14 03	
1 00	1 66	10	...	3 77	6 68	42	.....	13 63	.....	.....	13 63	40	14 03	
1 00	1 66	10	...	3 77	6 68	42	.....	13 63	.....	.....	13 63	40	14 03	
1 15	1 92	12	...	4 36	7 70	48	.....	15 73	.....	.....	15 73	40	16 13	
1 15	1 92	12	...	4 36	7 70	48	.....	15 73	.....	.....	15 73	40	16 13	
1 21	2 02	13	...	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
4 11	6 84	42	...	15 57	27 54	1 71	.....	56 19	.....	.....	56 19	80	56 99	
3 42	5 69	35	...	12 95	22 90	1 43	.....	46 74	.....	.....	46 74	40	47 14	Appealed.
2 81	4 68	29	....	10 65	18 84	1 17	.....	38 44	.....	.....	38 44	40	38 84	
2 49	4 15	25	....	9 43	16 68	1 04	.....	34 04	.....	.....	34 04	40	34 44	
4 37	7 28	44	....	16 55	29 27	1 82	.....	59 73	.....	.....	59 73	40	60 13	
4 84	8 07	49	....	18 35	32 46	2 02	.....	66 23	.....	.....	66 23	2 80	69 03	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	
2 61	4 32	26	....	9 83	17 39	1 08	.....	35 48	.....	.....	35 48	80	36 28	
1 73	2 88	18	....	6 56	11 60	72	.....	23 67	.....	.....	23 67	40	24 07	
1 73	2 88	18	....	6 56	11 60	72	.....	23 67	.....	.....	23 67	40	24 07	
1 73	2 88	18	....	6 56	11 60	72	.....	23 67	.....	.....	23 67	40	24 07	
1 73	2 88	18	....	6 56	11 60	72	.....	23 67	.....	.....	23 67	40	24 07	
1 73	2 88	18	....	6 56	11 60	72	.....	23 67	.....	.....	23 67	40	24 07	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	
1 30	2 16	13	....	4 92	8 70	54	.....	17 75	.....	.....	17 75	40	18 15	

The following is a correct record of the county collector's delinquent list of taxable

Names.	Description. Part of section, lot, or block.	Section.	Town.	Range.	Lot.	Sub-lot.	Lot.	Block.	Acres.	Back taxes.	Forfeited to State.	Valuation as equalized by State board of equalization.
										Year.	*Year.*	
VILLAGE OF EVANSTON—Cont'd.												
N. W. University	Ex. impts						8	32				540
"	" "						9	"				576
"							14	33				504
"							15	"				504
"							16	"				504
"							17	"				504
"							18	"				576
"	Ex. impts. on W. ½							34				3, 600
"							4	36				576
"							5	"				576
"							7	37				504
"							8	"				504
[55]												
N. W. University							9	37				504
"	Ex. impts						12	"				576
"	" "						13	"				576
"							8	38				648
"							9	"				720
"							10	"				720
"	Ex. impts						13 & 14	"				1, 332
"	E. 40 ft. of W. 100 ft						1					
"	E. 40 ft. of W. 160 ft						2	68				720
"	W. 100 ft. of S. 50 ft						3					
J. L. Cutter	Impts. on lots 1, 2, and						3					
"	N. ½							72				432
"							8	74				396
"							13	"				576
"							14	"				360
"							15	"				360
"							16	"				360
"							17	"				360
"							13	75				684
"							14	"				432
"							15	"				432
[56]												
N. W. University							17	75				4 32
Jno. E. James	S. ½						20	"				2 34
N. W. University							7	76				4 68
"							8	"				4 68
"							11	"				4 68
"							12	"				7 48
"							20	"				4 96
"							21	"				4 96
PART OF THE PLAT VILLAGE.	OF EVANSTON NOT INCLUDED IN	19	41	14								
N. W. University							5	77				3 60
"							6	"				3 60
"							7	"				3 60
"							8	"				3 60
"							9	"				3 60
"							10	"				3 60
"							11	"				3 60
"							12	"				3 60
"							13	"				3 60
"							17	"				3 60
[57]												
N. W. Unive ity							18	77				360
"							19	"				540
J. McKinnon							20	"				360
N. W. University							1	78				360
							2	"				360
							3	"				360

real estate, lands, lots, and blocks in the town of Evanston, &c.—Continued.

State tax.	County tax.	Town tax.	School district.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeitures.	Totals.		Total amount of judgment.	Remarks.
			No											
$1 30	$2 16	$0 13	....	$4 92	$8 70	$0 54	.....	$17 75	.....	.....	$17 75	$0 40	$18 15	
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	Appealed.
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	
8 64	14 40	87	....	32 76	57 96	3 60	.....	118 23	.....	.....	118 23	40	118 63	
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 21	2 02	13	....	4 59	8 12	51	.....	16 58	.....	.....	16 58	40	16 98	
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	
1 56	2 60	16	....	5 90	10 44	65	.....	21 31	.....	.....	21 31	40	21 71	
1 85	3 08	19	....	7 01	12 40	77	.....	25 30	.....	.....	25 30	40	25 70	
1 85	3 08	19	....	7 01	12 40	77	.....	25 30	.....	.....	25 30	40	25 70	
3 20	5 33	32	....	12 13	21 45	1 34	.....	43 77	.....	.....	43 77	80	44 57	
1 73	2 88	18	....	6 56	11 60	78	.....	23 67	.....	.....	23 67	1 60	25 27	Appealed.
1 04	1 73	11	....	3 94	6 97	44	.....	14 23	.....	.....	14 23	40	14 63	
96	1 59	10	....	3 61	6 38	40	.....	13 04	.....	.....	13 04	40	13 44	Paid.
1 39	2 31	14	....	5 25	9 28	58	.....	18 95	.....	.....	18 95	40	19 35	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	9	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
1 65	2 74	17	....	6 23	11 02	69	.....	22 50	.....	.....	22 50	40	22 90	
1 04	1 33	11	....	3 94	6 97	44	.....	14 23	.....	.....	14 23	40	14 63	
1 04	1 33	11	....	3 94	6 97	44	.....	14 23	.....	.....	14 23	40	14 63	
1 04	1 73	11	....	3 94	6 97	44	.....	14 23	.....	.....	14 23	40	14 63	
57	94	.....	....	2 13	3 78	24	.....	7 72	.....	.....	7 72	40	8 12	
1 13	1 88	12	....	4 26	7 54	47	.....	15 40	.....	.....	15 40	40	15 80	
1 13	1 88	12	....	4 26	7 54	47	.....	15 40	.....	.....	15 40	40	15 80	
1 13	1 88	12	....	4 26	7 54	47	.....	15 40	.....	.....	15 40	40	15 80	
1 80	3 00	18	....	6 82	12 05	75	.....	24 60	.....	.....	24 60	40	25 00	
1 20	1 99	12	....	4 52	7 99	50	.....	16 32	.....	.....	16 32	40	16 72	
1 20	1 99	12	....	4 52	7 99	50	.....	16 32	.....	.....	16 32	40	16 72	
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	Appealed.
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
1 30	2 16	13	....	4 92	8 70	54	.....	11 75	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	

The following is a correct record of the county collector's delinquent list of taxable

Names.	Description. Part of section, lot, or block.	Section.	Town.	Range.	Lot.	Sub-lot.	Lot.	Block.	Acres.	Back taxes. Year.	Forfeited to State. Year.	Valuation as equalized by State board of equalization.
PART OF THE PLAT OF EVANSTON, not included in village.		19	41	14								
N. W. University							4	78				$360
"							5	"				360
"							6	"				360
"							19	"				396
"							21	"				396
"							22	"				396
"							8	79				360
"							9	"				360
"							10	"				360
"							11	"				396
"							12	"				396
"							13	"				360
"							14	"				360
[58] N. W. University							15	79				360
"							16	"				360
"							17	"				360
"							18	"				360
"							19	"				360
"							20	"				360
"							12	80				360
"							13	"				342
"							14	"				342
"							15	"				342
"							16	"				342
"							17	"				342
"							18	"				342
"							19	"				342
"							1	81				342
"							2	"				342
"							3	"				342
"							8	"				342
"							9	"				342
[59] N. W. University							10	81				342
"							11	"				342
"							15	"				360
"							16	"				342
"							17	"				342
"							18	"				342
N. W. UNIVERSITY SUBDN. of that part of the S. E. ¼ lying west of Chicago ave.		7	41	14								
							1	83				622
							2	"				432
							3	"				432
							4	"				432
N. W. University							9	"				288
"							10	"				288
"							11	"				360
"							12	"				432
"							13	"				406
"							14	"				406
"							15	"				406
[60] N. W. University							16	83				406
"							17	"				406
"							18	"				406
"							19	"				288
"							20	"				234
"							21	"				234
"							22	"				234
"							1	84				270
"							2	"				234
"							3	"				234

real estate, lands, lots, and blocks in the town of Evanston, &c.—Continued.

State tax.	County tax.	Town tax.	School district. No.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeitures.	Totals.	Costs.	Total amount of judgment.	Remarks.
$0 87	$1 44	$0 09	....	$3 28	$5 80	$0 36	.....	$11 84	.....	.....	$11 84	$0 40	$12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
96	1 59	10	....	3 61	6 38	40	.....	13 04	.....	.....	13 04	40	13 44	Appealed.
96	1 59	10	....	3 61	6 38	40	.....	13 04	.....	.....	13 04	40	13 44	
96	1 59	10	....	3 61	6 38	40	.....	13 04	.....	.....	13 04	40	13 44	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
96	1 59	10	....	3 61	6 38	40	.....	13 04	.....	.....	13 04	40	13 44	
96	1 59	10	....	3 61	6 38	40	.....	13 04	.....	.....	13 04	40	13 44	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
87	1 44	09	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	Appealed.
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	09	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	9	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	9	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
87	1 44	9	....	3 28	5 80	36	.....	11 84	.....	.....	11 84	40	12 24	
83	1 37	9	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	9	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
83	1 37	9	....	3 12	5 52	35	.....	11 28	.....	.....	11 28	40	11 68	
1 50	2 49	16	....	3 99	10 02	63	.....	18 79	.....	.....	18 79	40	19 19	
1 04	1 73	11	....	2 77	6 96	44	.....	13 05	.....	.....	13 05	40	13 45	Appealed.
1 04	1 73	11	....	2 77	6 96	44	.....	13 05	.....	.....	13 05	40	13 45	
1 04	1 73	11	....	2 77	6 96	44	.....	13 05	.....	.....	13 05	40	13 45	
70	1 16	7	....	1 85	4 64	29	.....	8 71	.....	.....	8 71	40	9 11	
70	1 16	7	...	1 85	4 64	29	.....	8 71	.....	.....	8 71	40	9 11	
87	1 44	9	....	2 31	5 80	36	.....	10 87	.....	.....	10 87	40	11 27	
1 04	1 73	11	....	2 77	6 96	44	.....	13 05	.....	.....	13 05	40	13 45	
98	1 63	10	....	2 60	6 54	41	.....	12 26	.....	.....	12 26	40	12 56	
98	1 63	10	....	2 60	6 54	41	.....	12 26	.....	.....	12 26	40	12 56	
98	1 63	10	....	2 60	6 54	41	.....	12 26	.....	.....	12 26	40	12 56	
98	1 63	10	....	2 60	6 54	41	.....	12 26	.....	.....	12 26	40	12 66	
98	1 63	10	....	2 60	6 54	41	.....	12 26	.....	.....	12 26	40	12 66	
98	1 63	10	....	2 60	6 54	41	.....	12 26	.....	.....	12 26	40	12 66	
70	1 16	7	....	1 85	4 64	29	.....	8 71	.....	.....	8 71	40	9 11	
57	94	6	....	1 50	3 77	24	.....	7 08	.....	.....	7 08	40	7 48	
57	94	6	....	1 50	3 77	24	.....	7 08	.....	.....	7 08	40	7 48	
70	1 16	7	....	1 85	4 64	29	.....	8 71	.....	.....	8 71	40	9 11	
65	1 08	7	....	1 73	4 35	27	.....	8 15	.....	.....	8 15	40	8 55	
70	1 16	7	....	1 85	4 64	29	.....	8 71	.....	.....	8 71	40	9 11	
70	1 16	7	....	1 85	4 64	29	.....	8 71	.....	.....	8 71	40	9 11	Appealed.

The following is a correct record of the county collector's delinquent list of taxable

Names.	Description. Part of section, lot, or block.	Section.	Town.	Range.	Lot.	Sub-lot.	Lot.	Block.	Acres.	Back taxes. Year.	Forfeited to State. Year.	Valuation as equalized by State board of equalization.
N. W. UNIVERSITY SUBDN. of that part of the S. E. ¼ lying W. of Chicago ave.—Continued.		7	41	14	..	....	.....	...	.....	.....	.....	.....
							10	87	.....	.....	.....	$216
							11	"	.....	.....	.....	216
[64] N. W. University							12	87	.....	.....	.....	216
"							13	"	.....	.....	.....	216
"							14	"	.....	.....	.....	216
"							15	"	.....	.....	.....	216
"							16	"	.....	.....	.....	216
"							17	"	.....	.....	.....	216
"							18	"	.....	.....	.....	216
"							19	"	.....	.....	.....	216
"							20	"	.....	.....	.....	216
"							21	"	.....	.....	.....	216
"							22	"	.....	.....	.....	216
							1	86	.....	.....	.....	288
							2	...	.....	.....	.....	288
							3	...	.....	.....	.....	288
							4	...	.....	.....	.....	288
							5	...	.....	.....	.....	288
							6	...	.....	.....	.....	288
							7	...	.....	.....	.....	244
							8	...	.....	.....	.....	244
[65]							9	86	.....	.....	.....	2 44
							10	...	.....	.....	.....	2 44
							11	...	.....	.....	.....	2 44
							12	...	.....	.....	.....	2 44
							13	...	.....	.....	.....	2 44
							14	...	.....	.....	.....	2 44
							15	...	.....	.....	.....	2 44
							16	...	.....	.....	.....	2 44
							17	...	.....	.....	.....	2 44
							18	...	.....	.....	.....	2 44
							19	...	.....	.....	.....	2 44
							20	...	.....	.....	.....	2 44
N. W. University							1	85	.....	.....	.....	2 34
							2	...	.....	.....	.....	2 34
							3	...	.....	.....	.....	2 34
							4	...	.....	.....	.....	2 34
							5	...	.....	.....	.....	2 34
							6	...	.....	.....	.....	2 34
							7	...	.....	.....	.....	2 34
[66] N. W. University							8	84	.....	.....	.....	198
"							9	84	.....	.....	.....	198
"							10	"	.....	.....	.....	198
"							11	"	.....	.....	.....	198
"							12	"	.....	.....	.....	198
"							13	"	.....	.....	.....	198
"							14	"	.....	.....	.....	198
"							15	"	.....	.....	.....	198
"							16	"	.....	.....	.....	198
"							17	"	.....	.....	.....	198
"							18	"	.....	.....	.....	198
"							19	"	.....	.....	.....	198
"							20	"	.....	.....	.....	198
"							21	"	.....	.....	.....	198
"							22	"	.....	.....	.....	198
"							1	83	.....	.....	.....	216
"							2	"	.....	.....	.....	216
"							3	"	.....	.....	.....	216
"							4	"	.....	.....	.....	216
[67] N. W. University							5	82	.....	.....	.....	2 16
"							6	"	.....	.....	.....	2 16

eal estate, lands, lots, and blocks, in the town of Evanston, &c.—Continued.

State tax.	County tax.	Town tax.	School district. No.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeitures.	Totals.	Costs.	Total amount of judgment.	Remarks.
$0 52	$0 87	$0 6		$1 39	$3 48	$0 22		$6 54	.....		$6 54	$0 40	$6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	Appealed.
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
70	116	7		1 84	4 64	29		8 70	.....		8 70	40	9 10	
70	116	7		1 84	4 64	29		8 70	.....		8 70	40	9 10	
70	116	7		1 84	4 64	29		8 70	.....		8 70	40	9 10	
70	116	7		1 84	4 64	29		8 70	.....		8 70	40	9 10	
70	116	7		1 84	4 64	29		8 70	.....		8 70	40	9 10	
70	116	7		1 84	4 64	29		8 70	.....		8 70	40	9 10	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	Appealed.
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
59	98	6		1 57	3 93	25		7 38	.....		7 38	40	7 78	
57	94	6		1 50	3 77	24		7 08	.....		7 08	40	7 48	
57	94	6		1 50	3 77	24		7 08	.....		7 08	40	7 48	
57	94	6		1 50	3 77	24		7 08	.....		7 08	40	7 48	
57	94	6		1 50	3 77	24		7 08	.....		7 08	40	7 48	
57	94	6		1 50	3 77	24		7 08	.....		7 08	40	7 48	
57	94	6		1 50	3 77	24		7 08	.....		7 08	40	7 48	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	Appealed.
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
48	80	5		1 27	3 19	20		5 99	.....		5 99	40	6 39	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	
52	87	6		1 39	3 48	22		6 54	.....		6 54	40	6 94	

The following is a correct record of the county collector's delinquent list of taxable

Names.	Description. Part of section, lot, or block.	Section.	Town.	Range.	Lot.	Sub-lot.	Lot.	Block.	Acres.	Back taxes.	Forfeited to State.	Valuation as equalized by State board of equalization.
										Year.	Year.	
N. W. UNIVERSITY S	UBDN. of that part of the S. E.	7	41	14	..	....	.....	.....	.....	.....	.....	.....
¼ lying W. of Chi	cago ave.—Continued.											
N. W. University ..	....	..	..	..	..	....	7	89	.....	.....	.....	$2 16
"	....	..	..	..	..	....	8	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	9	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	10	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	11	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	12	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	13	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	14	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	15	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	16	"	.....	.....	.....	1 80
"	....	..	..	..	..	....	17	"	.....	.....	.....	1 80
							18	....	.....	.....	.....	1 80
							19	....	.....	.....	.....	1 80
							20	....	.....	.....	.....	1 80
							21	....	.....	.....	.....	1 80
							22	....	.....	.....	.....	1 80
[68]												
UNIVERSITY SUBDN.	of that part of the N. ½ of the S.	7	41	14	..	....	.....	.....	.....	.....	.....	.....
½ of the S. W. ¼ lyi	ng east of the center of Sher-											
man ave. in the	town of Evanston produced											
north; also a strip	of land 251 feet deep east and											
west, lying west a	nd adj. to the above-described											
land.												
N. W. University ..	....	..	..	..	..	....	1	92	.....	.....	.....	198
"	....	..	..	..	..	....	2	"	.....	.....	1873	198
N. W. University ..	That part N. W. of Sherman	7	41	14	..	....	.....	....	8	.....	.....	4, 052
	ave. & S. of Noyes st.											
N. W. University ..	Ex. lands sub'd at blocks 90,	..	..	..	..	....	.....	....	.....	.....	.....	.....
	91, & 92.											
							9	....	50	.....	.....	15, 919
GEORGE SMITH'S SU	BDN. of S. Park, (being S. 140	..	42	13	..	....	.....	.....	.....	.....	.....	.....
ac.) of S. sec. Ouel	mette reserve.											
						Lot	Blk.	Lot.				
UNIVERSITY SUBDN	of lots 21 & 22 & S. ½ of	..	..	..	..	....	.....	20	.....	.....	.....	.....
							13	"	.....	.....	.....	72
							14	"	.....	.....	.....	62
							15	"	.....	.....	.....	62
							16	"	.....	.....	.....	62
							17	"	.....	.....	.....	62
[69]												
GEORGE SMITH'S SU	BDN. of S. Park (being S. 140	..	42	13	..	....	.....	.....	.....	.....	.....	.....
acs.) of S. sec. Ou	elmette's reserve.											
						Lot.	Blk.	Lot				
UNIVERSITY SUBDN.	of lot 21 & 22 & S. ½ of	..	..	..	..	....	.....	20	.....	.....	.....	.....
							18	"	.....	.....	.....	62
							19	"	.....	.....	.....	62
							20	"	.....	.....	.....	62
GEO. SMITH'S SUBN.	of S. Park (being S. 140 acs.) of	..	..	..	..	....	.....	.....	.....	.....	.....	.....
S. sec. Ouelmette's	reserve.											
							Lot.	Bl'k				
N. W. University ..	Ex. W. 4. 3 acs	..	..	..	..	....	17	....	16 06	.....	.....	1, 602
							18	....	20 36	.....	.....	2, 030
WILLMETTE VILLAG	E, a subn. of W. 63.55 chs. of N.											
sec. of Ouelmette	reserve; also the 40 ft. N. and											
adj. the center of	N. ave. and the 33 ft. S. of and											
adj. centre of S.	ave.											
	Greenleaf and Morse. subn.	..	..	..	..	....	.....	.....	.....	.....	.....	.....
	of bl'k 12, 13, 15, 16, 19, 21.											
							1	13	.....	.....	.....	50
							2	"	.....	.....	.....	50
							3	"	.....	.....	.....	50

real estate, lands, lots, and blocks, in the town of Evanston, &c.—Continued.

State tax.	County tax.	Town tax.	School district.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeitures.	Totals.	Costs.	Total amount of judgment.	Remarks.
			No.											
$0 52	$0 87	$0 6	....	$1 39	$3 48	$0 22	.....	$6 54	.....	.....	$6 54	$0 40	$6 94	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
44	72	5	....	1 16	2 90	18	.....	5 45	.....	.....	5 45	40	5 85	
48	80	5	....	1 27	3 19	20	.....	5 99	.....	.....	5 99	40	6 39	Appealed.
48	80	5	....	1 27	3 19	20	.....	5 99	.....	.....	15 44	53	15 97	Appealed.
73	1 01	11	....	1 48	5 52	30	.....	.....	10	9 45	.....	.....	.....	
9 73	16 21	9	....	25 94	65 24	4 06	.....	122 16	.....	.....	122 16	57	122 73	Appealed.
38 20	63 68	3 82	....	101 89	256 31	15 92	.....	479 82	.....	.....	479 82	4	480 22	Appealed.
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	Appealed.
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	Appealed.
15	25	6	....	40	1 00	7	.....	1 93	.....	.....	1 93	40	2 33	
3 85	6 41	1 46	....	14 90	25 80	1 61	.....	54 03	.....	.....	54 03	40	54 43	Appealed.
4 88	8 12	1 85	....	18 90	32 69	2 03	.....	68 47	.....	.....	68 47	40	68 87	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 01	Appealed.
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 01	

The following is a correct record of the county collector's delinquent list of taxable

Names.	Description.										Back taxes.	Forfeited to State.	Valuation as equalized by State board of equalization.
	Part of section, lot, or block.	Section.	Town.	Range.	Lot.	Sub-lot.	Lot.	Block.	Acres.				
WILMETTE VILLAGE —Contd. [70]	Greenleaf and Morse subdn. of Blks. 12, 13, 15, 16, 19, 21.										Year.	Year.	
							4	13			.....	.....	$50
							5	"			.....	.....	50
							6	"			.....	.....	50
							7	"			.....	.....	50
							8	"			.....	.....	50
							9	"			.....	.....	50
							10	"			.....	.....	50
							11	"			.....	.....	50
							12	"			.....	.....	50
							13	"			.....	.....	50
							14	"			.....	.....	50
							15	"			.....	.....	50
							16	"			.....	.....	50
							17	"			.....	.....	50
							18	"			.....	.....	50
							19	"			.....	.....	50
							20	"			.....	.....	50
							21	"			.....	.....	50
							22	"			.....	.....	50
71							23	13			.....	.....	50
							24	...			.....	.....	50
							25	...			.....	.....	50
							26	...			.....	.....	50
							15	15			.....	.....	74
							16	...			.....	.....	74
							17	...			.....	.....	74
							18	...			.....	.....	74
							14	16			.....	.....	62
							15	...			.....	.....	62

real estate, lands, lots, and blocks in the town of Evanston, &c.—Continued.

State tax.	County tax.	Town tax.	School district.	School tax.	Corporation tax.	Library tax.	Tax.	Aggregate tax of A. D. 1874.	Printer's fees.	Aggregate back tax and forfeitures.	Totals.	Costs.	Total amount of judgment.	Remarks.
			No.											
$0 12	$0 20	$0 5	....	$0 50	$1 74	.....	.....	$1 61	.....	.....	$1 61	$0 40	$2 01	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	Appealed.
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	70	.....	.....	1 61	.....	.....	1 61	40	2 01	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 03	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 03	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 03	
12	20	5	....	50	74	.....	.....	1 61	.....	.....	1 61	40	2 03	
18	30	7	....	74	09	.....	.....	2 38	.....	.....	2 38	40	2 78	Appealed.
18	30	7	....	74	1 09	.....	.....	2 38	.....	.....	2 38	40	2 78	
18	30	7	....	74	1 09	.....	.....	2 38	.....	.....	2 38	40	2 78	
18	30	7	....	74	1 09	.....	.....	2 38	.....	.....	2 38	40	2 78	
15	25	6	....	62	92	.....	.....	2 00	.....	.....	2 00	40	2 40	
15	25	6	....	62	92	.....	.....	2 00	.....	.....	2 00	40	2 40	

72 STATE OF ILLINOIS,
County of Cook, ss:

I, Henry B. Miller, collector of the county of Cook, do solemnly swear that the foregoing is a true and correct record of the delinquent lands and lots within the county of Cook upon which I have been unable to collect the taxes and special assessments, interest, and printers' fees charged thereon, as required by law for the year or years therein set forth; that said taxes, assessments, interest, and printers' fees now remain due and unpaid, as I verily believe.

HENRY B. MILLER,
County Treasurer and Ex-Officio County Collector of Cook County, Illinois.

Subscribed and sworn to before me this 14th day of June, A. D. 1875.
[SEAL.] HERMANN LIEB,
County Clerk.

73 County court of Cook County, June term, A. D. 1875.

STATE OF ILLINOIS,
County of Cook, ss:

WEDNESDAY, *July 14th, A. D.* 1875—10 o'clock a. m.

Court being in session:

Present: Honorable Martin R. M. Wallace, judge of the county court of Cook County; Francis Agnew, sheriff of Cook County.

Attest: HERMANN LIEB,
Clerk of the County Court Cook County.

In the matter of the application of Henry B. Miller, county treasurer and ex-officio collector of the revenue of Cook County, for judgment for the delinquent State, county, town, school, road, and park taxes and assessments, levied and assessed upon the lands and lots in the county of Cook, in the State of Illinois, for the year 1874, and for judgment for the amounts for which lands and lots were forfeited to the State of Illinois for unpaid taxes at the tax sales for taxes for 1873, and back taxes of 1873 added, together with interest and costs due and unpaid thereon.

74 And now on this fourteenth day of July, A. D. 1875, the same being one of the days of the June term, A. D. 1875, of this court, again comes Henry B. Miller, county treasurer and ex-officio collector of the revenue of Cook County, by John M. Rountree, esquire, county attorney of said county, also comes the several parties owners of and interested in the several lands and lots in the foregoing list described, who have heretofore severally filed objections herein to the rendition of judgment against the said lands and lots in which they are interested, respectively.

And the court having considered the several objections aforesaid, and having heard the evidence adduced and the arguments of counsel, and having duly considered the same, and being now fully advised in the premises, it is considered and ordered by the court that all objections to the rendition of judgment against the several lands and lots in the foregoing list described, opposite the description of which in the said list the words "Judgment refused" are written, there being nothing written after said words to limit or confine the same to any particular

tax or assessment, or forfeiture be, and the same are hereby, sustained, and judgment is hereby refused as to said several lands and lots.

75 It is further considered and ordered by the court that whenever in said list there is noted opposite the description of any land or lot "Judgment refused" for any particular tax or assessment or forfeiture or costs, judgment is hereby refused against said land or lot for said tax or assessment or forfeiture or costs, as to which judgment is noted refused as aforesaid; and it is further ordered that all other objections filed herein to the rendition of judgment against the lands and lots in the foregoing list described be, and the same are hereby, overruled.

And whereas due notice has been given of the intended application for judgment against said lands and lots, and no sufficient defence having been made or cause shown why judgment should not be entered against said lands and lots for the taxes, assessments, forfeitures, back taxes, interests and costs due and unpaid thereon for the years herein set forth, except where judgment has been refused, as aforesaid; therefore it is considered and ordered by the court that judgment be, and is hereby, entered against the aforesaid tracts or lots of land, as the case may be, in favor of the people of the State of Illinios, for the sum annexed to the description of each, less any particular tax or assessment, for-

76 feiture, back taxes, interest, or costs, for which judgment has been refused, as aforesaid, being the amount of taxes, assessments, forfeitures, back taxes, interest, and costs due and unpaid severally thereon.

And it is ordered by the court that the said several tracts or lots of land, or so much of each of them as shall be necessary to satisfy the amount of taxes, assessments, forfeitures, back taxes, interest, and costs due and unpaid severally thereon, be sold as the law directs.

And it is further ordered that all parties desiring to appeal from said judgment file their appeal bonds in double the amount of the judgment appealed from within twenty days from the date hereof.

M. R. M. WALLACE,
County Judge.

77 County court of Cook County.—June term, A. D. 1875.

STATE OF ILLINOIS, *County of Cook, ss:*

WEDNESDAY, *July 14th*, 1875—10 o'clock a. m.

Court being in session.

Present: Honorable Martin R. M. Wallace, judge of the county court of Cook County; Francis Agnew, sheriff of Cook County.

Attest:

HERMANN LIEB,
Clerk of the County Court of Cook County.

In the matter of the application of Henry B. Miller, county treasurer and ex-officio collector of the revenue of Cook County, for judgment for the delinquent State, county, town, school, road, and park taxes and assessments, levied and assessed upon the lands and lots in the county of Cook, in the State of Illinois, for the year 1874, and for judgment for the amount for which lands and lots were forfeited to the State of Illinois for unpaid taxes at the tax sales for taxes of 1873, and back taxes of 1873 added, together with interest and costs due and unpaid thereon.

78 And now this day comes the Northwestern University, by Grant Goodrich, its attorney; William McKindley and Sidney L. Darrow, by Nicholas McKindley, their attorney; Ann Shelley, John Brooks, John Shortez, Joel A. Wells, Thomas Chapman, George Weimer, Illinois Stone Company, Edwin Walker, Nicholas New, Charles Lutz, Andrew Weimer, Samuel W. Norton, Nathaniel J. Brown, Jane Scott, Austin Godfrey, Jacob Miller, Julia A. Park, Maria L. Norton, John Jardine, William C. Bell, Richard Bracken, F. C. Godfrey, Frederick Simon, Henry Schmelzer, J. S. Shattuck, Hiram Van Ness, Jacob Helbig, Noah Hansen, John Oestry, Lemont Kettering, M't's Nellie A. Reed, Samuel C. Martin, Job S. Luther, Joseph Brand, J. H. Freeman, Joseph Frank, Gottlieb Meyer, Charles Freehoff, Alexander Straehen, Anthony Dutter, Nicholas Eulert, Andrew J. Kittering, Isaac Cleveland, John Kittering, Jerry Murphy, Archibald Ingram, Francis Slavin, Stephen Keough, Selah Spaulding, Benjamin J. Clough, Charles W. Kelsey, Solomon C. Kelsey, Henry W. Doore, Singer and Talcott Stone Company, Horace M. Singer, M't's Ann Singer, Forbes H. Miner, Patrick Murray, Sylvester L. Derby, William R. Pierce, Joseph B. Rood, Elizabeth Talyea, Milton W. Cleveland, Julia Driscoll, Peter Hermes, Hermann Sayer,
79 Barthol Konrad, Peter Dorkendorf, Patrick Slevin, by their attorneys, Scovill & Bayley; and F. A. Stevens, W. H. W. Cushman, Isaac N. Hardin, Couch & Woods, Nutt & Brooks, A. W. Windett, Ira Nutt, Jacob Kelley, D. H. Pike, Thomas A. Hill, Matson Hill, Rob't W. Gerger, James Hill, William Hinsley, Thomas Hughes, William Miller, A. J. Hawhe, dec'd, W. R. Cornell, W. H. Chappel, by J. W. Wanhop, their attorney; and the City of Chicago, by James Goggin, its attorney; Charles W. Weston, William H. Sweet, Eli Kinney, Daniel McBain, Laura N. Stark, Laura N. Stark, guardian, John A. Logan, Uzziel P. Smith, Horace F. White, J. Smead Purple, W. Schlosser, Wilson H. Nixon, R. Schlosser, by Noyes & White, their attorneys; and Geo. L. Thatcher, by Hervy, Anthony & Gault, his attorneys; and C. M. Smith, Geo. E. Purrington, A. R. Scranton, W. K. Wells, and O. Cronkhite, A. Salisbury, E. F. Bosley, John Baker, John Miller, Eliza J. Wright, Clara Nicholson, est. of Agnes Noba, dec'd, John Nicholson, A. Ensign, George H. Rozet, N. Monroe, H. Whitehead, Ambrose Foster, James C. Connor, Woodford & Pratt, S. E. Gross, E. J. Whitehead, by Harrison & Whitehead, their attorneys; Jane Law, by William Borden, her attorney; J. M. Thatcher, Edward K. Rodgers, Junius Mulvey, Benjamin V. Page, Obadiah Jackson, Martin Andrews, Webster, H. G. Spof-
80 ford, John Forsyth, W. R. Page, M. E. Robertson, Cook County Land Company, Joel Bigelow, H. M. Shepard, W. H. Wood, and James Couch, trustees, W'm H. Bradley, W'm H. Bradley, and E. W. Blatchford, trustees of W. L. Newberry, dec'd, John V. LeMoyne, Louis Lovet, Adolphe LeMoyne, J. D. Wallace, Nelson Mason, E. G. Mason, and Geo. H. Laflin, executors of C. R. Starkweather, Amos Otis, Ernst Uhlick, and J. H. Muhlke, Uhlich Orphan Asylum, E. S. Prescott, M. C. Stearns, Geo. C. Walker, Charles H. Walker, Chicago Academy of Sciences, W. L. Sampson, E. C. Fellows, Charles B. Sawyer, Josiah L. Lombard, James H. Gilbert, L. C. Fuller, James Stinson, A. T. Galt, Benjamin Shurtliff, Jane Kennedy, Nimrod Lancaster, B. L. Honore, John Barton, H. Z. Robinson, George W. Davis, E. S. Prescott, Charles W. Spear, S. McKichan, Edwin L. Brown, C. M. Brown, Francis L. Bird, John H. Page, Lazaras Silverman, M. L. Scudder, Esther T. Rutter, C. Waensche, Henry Curtis, Wing and Farlin, John A. Bartlett, C. W. Downs, Sarah A. Downs, Sarah A. Bartlett, Aaron P. Downs, F. W. Springer, Marietta Clark, Blue Island Land

and Building Company, Levi Rosenfeld, Jacob Rosenberg, Henry Abram, and George C. Man, executors, W. K. Bull, trustee, J. J. Merriam, Alexander Murray, and Geo. P. McBride, John M. Wilson, Coolbaugh, Powers & Wheeler, Elijah Peacock, D. B. Lyman, Mary E. Lyman, Joel Bigelow, A. R. Fox, D. W. Sutherland, McCarthy & Hubbard,
81 R. S. Williamson, H. M. Shephard, E. S. Hawley, D. H. Sheldon, W. H. Wood, W. C. Goudy, J. P. Clarkson, Mary Clarkson, W'm Hanlon, E. D. Potts, Elizabeth Brown, J. C. McCullem, J. N. Henrichs, C. N. Holden, W. H. Holden, Nancy F. Nickerson, James M. Hill, James E. Tyler, David Fales, Mary Fales, C. A. Dupee, John Wilkenson, William F. Myrick, Mary E. Bacon, Charles B. Swain, John C. Lyman, J. H. Lyman, I. N. Stiles, Hugh Maher, Kennicott, by McDaid & Wilson, their attorneys; George W. Plummer, by W'm Hopkins, his attorney; Timothy Wright, by D. L. Shorey, his attorney; and P. H. Brislin, B. A. Stampofski, M'r's Mary A. Bailey, M'r's Sarah C. Broad, G. S Thomas, Carol Gaytes, Charles W. Colehour, Frederick O. Kimball, George W. Hoffman, George W. Rust, Fernando Jones, Edward Ely, John D. McLeod, Allan C. Storey, W'm H. Phare, Charles G. Harris, Cornelia W. Storey, John Poxon, Edgar Loomis, O. White, Samuel Beers, S. L. Sharp Lizzie W. Sharp, Mary S. Waite, E. Bicknell, Edward Martin, W. W. Boynton, W'm H. Hoyt, U. T. Wright, M. Fraser, J. Q. Hoyt, P. L. Sherman, Sarah J. Parkhill, E. C. Cook, E. A. Burbank, L. C. Boyington, Carlile Mason & Co., Carlile Mason, George Mason, Carlile Mason, James A. Mason, Phillip Larmon, D. S. Morgan, E. C. Fellows, Robert W. Robinson, J. W. Helmer, William Hausbrough, E. C. Walker, William S. John-
82 ston, M'rs A. M. Huntington, Samuel Johnston, Norman C. Perkins, Douglas S. Taylor, Minnesota Ewing, Mary E. Sturges, Minna Ewing, W'm Speight, Isaac Pflaum, W. H. Colehour, Ralph Emmerson, Caroline D. Hill, D. G. Hamilton, M. K. Gleason, Joseph Morris, Henry Fuller, R. E. Godell, Thomas H. Brown, E. S. Fowler, Richard T. Race, William M. Derby, J. C. McCollough, William Lamb, Gurdon S. Hubbard, Asahel Pierce, H. H. Honore, Samuel O. Walker, Samuel J. Walker, William A. Ewing, by Edward Roby, their attorney, and pray an appeal to the supreme court of the State of Illinois from the judgment of this court, entered herein on the 14th day of July, A. D. 1875, against the lands and lots in which they are respect*fu*lly interested, described in their several objections filed herein for the delinquent State, county, town, school, road, and park taxes and assessments for the year 1874, and for the amounts for which said lands and lots were forfeited to the State of Illinois for unpaid taxes at the tax-sales of 1873, and back taxes of 1873 added, together with interest and costs due and unpaid thereon, which appeal is granted on condition they file their respect-
ive appeal bonds in double the amount of the judgment so ap-
83 pealed from, and bills of exceptions within twenty days from the date hereof.

M. R. M. WALLACE, *Judge.*

Know all men by these presents that we, the Northwestern University, Thomas C. Hoag, & Orrington Lunt, of the county of Cook, and State of Illinois, are held and firmly bound unto the people of the State of Illinois in the penal sum of fifteen thousand dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly, severally, and firmly by these presents. Witness our hands and seals this 17th day of July, A. D. 1875.

The condition of the above obligation is such, that whereas the people

of the State of Illinois did, on the first day of July, A. D. 1875, in the county court of Cook County, in the State aforesaid, and of the July term thereof, A. D. 1875, recover a judgment against the following-described real estate, on the application of Henry B. Miller, county collector of Cook County, for judgment for delinquent taxes for the year 1874, to wit:

Name of owner.	Part or lot of land.	Sub-lot.	Lot.	Block.	Assessment.	
[84] Village of Evanston..	Comprising part of 12, 13, & 14, and all of 7 & 18, and all of 19.	4113	.....	.....	.....	.....
	Ex. E. 180 ft	.....	.....	.....	.....	.....
	Ex. E. 180 ft. of N. 20 ft.; ex. imp	.....	1	2	1874	31 36
	" "	.....	2	"	"	6 52
	" "	.....	7	"	"	42 60
	" "	.....	8	"	"	42 60
	S. 50 ft., W. 180 ft	.....	9	"	"	42 60
	Ex. S. 50 ft., W. 180 ft	.....	10	"	"	42 60
	" " "	.....	10	"	2432	
					1874	53 90
			10	"	2968	
					1873	
			11	"	4260	
					1874	101 88
			11	"	5926	
					1873	
			12	"	4260	
					1874	101 88
			12	"	5926	
					1873	
			1	3	1874	30 18
			2	"	"	30 18
			3	"	"	30 18
			4	"	"	30 18
			5	"	"	30 18
	Ex. E. 180 feet		7	"	"	15 13
			11	"	"	26 63
			12	"	"	26 63
			13	3	"	26 63
[85]			14	3	1874	26 63
			13	5	"	35 06
			14	"	"	35 04
			15	"	"	32 67
			16	"	"	32 67
			17	"	"	35 04
			18	"	"	35 04
			7	6	"	14 24
			8	"	"	.....
			9	"	"	13 29
Village of Evanston—Cont.	Ex. imp		5	7	"	15 13
			8 & 9	"	"	25 13
			1	8	"	28 41
			2	"	"	28 41
			3	"	"	26 50
			4	"	"	26 50
			5	"	"	26 50
	Lots, ex. imp		6	"		
	"		7	"		
	"		8	"	1874	89 87
	"		9	"		
	"		10	"		
			2	10	1874	52 06
			3	"	"	27 93
			4	"	"	27 93
			5	"	"	27 93
	Ex. imp		6 & 7	"	"	59 12
[86]	Ex. imp		5			
	" "		6	15	1874	106 42
	" "		7			
	" "		8			
	" "		9	"	1874	26 63
	" "		10	"	"	31 36
	N. ½		2 & 3	16	"	52 06
	" ex. imp		7	"	"	11 40
	" " "		8	"	"	22 76
	" " "		9	"	"	26 05
	" " "		10	"	"	26 05
	" " "		5	77	"	12 11
	" " "		6	"	"	12 11
	" " "		7	"	"	12 11
	" " "		8	"	"	12 11

Name of owner.	Part or lot of land.	Sub-lot.	Lot.	Block.	Assessment.
			9	17	1874 $12 11
			10	"	" 12 11
			11	"	" 12 11
	Ex. imp		14	"	" 9 49
Evanston—Cont	" "		15	17	" 9 49
	" "		16	"	" 9 49
	" "		17	"	" 9 49
	" "		18	"	" 9 49
	" "		19	"	" 9 49
	Ex. imp., S. ½		3		
	" "		3		
	" "		4		
	" "		5	18	" 85 16
	" "		6		
	" "		7		
[87]			8	18	1874 18 08
			9	"	..... 14 23
			10	"	..... 14 53
	Ex. imp	1			
	" "	2			
	" "	3	2 & 3	19	1874 62 40
	" "	4			
	" "	5			
	" "	5	5	19	1874 25 30
	" "	2	8 & 9	"	" 37 96
	" "	3	"	"	" 76 93
	" "	4	"	"	" 43 50
	" "	5	"	"	" 56 78
	" " W. 30		10 & 11	19	" 28 41
	" " E. 20 of W. 50 ft		11	"	" 18 95
	" "		10		
	" "		11	20	" 131 00
	" "		12		
	" "		23		..... 219 33
	" "	5	4, 5, & 6	25	1874
	" "	6	"	"	..... 70 38
	" "	7	"	"	.....
Vil. Evanston—Cont.	" "	1	11 & 12	26	
	" "	2	"	"	
	" "	3	"	"	
	" "	4	"	"	1874 84 80
	" "	5	"	"	
	" "	6	"	"	
	" "	7	"	"	
[88]	Ex. imp		7	27	1874 56 19
	" "		8	"	.....
	" "	1	11 & 12	"	" 47 74
	" "	2	"	"	" 38 44
	" "	3	"	"	" 34 04
	" "	4	"	"	" 59 73
In record	Ex. imp. S. ½ lots 7 & 8 and all lots 9, 10, 11, 12, & 13.			28	" 66 23
	Ex. imp		7	29	" 17 75
	" "		8	"	" 17 75
	" "		9	"	" 17 75
	" "		10	"	" 17 75
	" "		11 & 12	"	" 35 48
	" "		5	31	" 23 67
	" "		6	"	" 23 67
	" "		7	"	" 23 67
	" "		8	"	" 23 67
	" "		9	"	" 23 67
			5	32	" 17 75
			6	"	" 17 75
			7	"	" 17 75
			8	"	" 17 75
			9	"	" 18 95
[89] Vil. of Evanston—Cont.			14	33	1874 16 58
			15	"	" 16 58
			16	"	" 16 58
			17	"	" 16 58
			18	"	" 18 95
	Ex. imp. N. ½			34	" 118 23
			4		
			5	36	" 37 90
			7	37	" 16 58
			8	"	" 16 58
			9	"	" 16 58
	Ex. imp		12	"	" 18 95
	" "		13	"	" 18 95
			8	38	" 21 31
			9	"	" 25 30
			10	"	" 25 30

Name of owner.	Part or lot of land.	Sub-lot.	Lot.	Block.	Assessment.	
	Ex. imp		13, 14	38	1874	$43 77
	" "		1 & 2	68	"	
	E. 40 ft. W. 100 ft		3	"	"	23 67
	W. 100 ft. S. 50 "		3	"	"	
In record	Imp. lots 1, 2, & N. ½			72	"	14 23
			8	74	" Paid.	13 04
			13	"	"	18 95
			14	"	"	11 84
			15	"	"	11 84
			16	"	"	11 84
			17	"	"	11 84
[90]						
Vil. Evanston—Cont.			13	75	1874	22 50
			14	"	"	14 23
			15	"	"	14 23
			17	"	"	14 23
	S. ½		20	"	"	7 72
			7	76	"	15 40
			8	"	"	15 40
			11	"	"	15 40
			12	"	"	24 60
			20	"	"	16 32
			21	"	"	16 32
			5	77	"	11 84
			6	"	"	11 84
			7	"	"	11 84
			8	"	"	11 84
			9	"	"	11 84
			10	"	"	11 84
			11	"	"	11 84
			12	"	"	11 84
			13	"	"	11 84
			17	"	"	11 84
			18	"	"	11 84
			19	"	in record.	11 84
			20	"	"	11 84
[91]			1	78	1874	11 84
			2	"	"	11 84
			3	"	"	11 84
			4	"	"	11 84
			5	"	"	11 84
			6	"	"	11 84
			19	"	"	13 04
			21	"	"	13 04
			22	"	"	13 04
			8	79	"	11 84
			9	"	"	11 84
			10	"	"	11 84
			11	"	"	13 04
			12	"	"	13 04
			13	"	"	11 84
			14	"	"	11 84
			15	"	"	11 84
			16	"	"	11 84
			17	"	"	11 84
			18	"	"	11 84
			19	"	"	11 84
			20	"	"	11 84
			12	80	"	11 84
			13	"	"	11 28
			14	"	"	11 28
			15	"	"	11 28
			16	"	"	11 28
[92]			17	80	1874	11 28
			18	"	"	11 28
			19	"	"	11 28
			1, 2, 3	81	"	33 84
			8, 9, 10, 11	81	"	45 12
			15, 16, 17, 18	81	in record.	45 62

Name of owner.	Part or lot of land.	Sub-lot.	Lot.	Block.	Assessment.
Northwestern University.	Subd. of that part of S. E. ¼ lying west of Chicago avenue, 7, 41, 14.		1	83	1874	$18 79
			2			
			3	"	"	39 15
			4			
[93]			9			
			10			
			11			
			12			
			13			
			14			
			15			
			16	83	1874	148 48
			17			
			18			
			19			
			20			
			21			
			22			
			1	84	"	8 15
			2	"	"	8 71
			3	"	"	8 71
			4	"	"	9 01
			5	"	"	9 55
			6	"	"	10 37
			7	"	"	8 71
			8	"	"	7 63
			9	"	"	7 63
			10	"	"	7 63
			11	"	"	7 63
			12	"	"	7 63
			13	"	"	7 63
			14	"	"	7 63
[94]			15	84	1874	7 63
			16	"	"	7 63
			17	"	"	7 63
			18	"	"	7 63
			19	"	"	7 63
			20	"	"	7 63
			1	85	"	8 71
			2	"	"	8 71
			3	"	"	8 71
			4	"	"	8 71
			7	"	"	7 38
			8	"	"	7 38
			9	"	"	7 38
			10	"	"	7 38
			11	"	"	7 38
			12	"	"	7 38
			13	"	"	7 38
			14	"	"	7 38
			15	"	"	7 38
			16	"	"	7 38
			17	"	"	7 38
			18	"	"	7 38
			19	"	"	7 38
			20	"	"	7 38
[95]			1	86	1874	8 70
			2	"	"	8 70
			3	"	"	8 70
			4	"	"	8 70
			5	"	"	8 70
			6	"	"	8 70
			7	"	"	7 38
			8	"	"	7 38
			9	"	"	7 38
			10	"	"	7 38
			11	"	"	7 38
			12	"	"	7 38
			13	"	"	7 38
			14	"	"	7 38
			15	"	"	7 38
			16	"	"	7 38
			17	"	"	7 38
			18	"	"	7 38
			19	"	"	7 38
			20	"	"	7 38
			1	87	"	7 38
			2	"	"	7 92
			3	"	"	7 92
			4	"	"	7 92
			5	"	"	7 92
			6	"	"	8 50
			7	"	"	8 50

Name of owner.	Part or lot of land.	Sub-lot.	Lot.	Block.	Assessment.	
[96]			8	87	1874	6 54
			9	"	"	6 54
			10	"	"	6 54
			11	"	"	6 54
			12	"	"	6 54
			13	"	"	6 54
			14	"	"	6 54
			15	"	"	6 54
			16	"	"	6 54
			17	"	"	6 54
			18	"	"	6 54
			19	"	"	6 54
			20	"	"	6 54
			21	"	"	6 54
			22	"	"	6 54
			1	88	"	7 08
			2	"	"	7 08
			3	"	"	7 08
			4	"	"	7 08
			5	"	"	7 08
			6	"	"	7 08
			7	"	"	7 08
			8	"	"	5 99
			9	"	"	5 99
			10	"	"	5 99
			11	"	"	5 99
			12	"	"	5 99
[97]			13	88	1874	5 99
			14	"	"	5 99
			15	"	"	5 99
			16	"	"	5 99
			17	"	"	5 99
			18	"	"	5 99
			19	"	"	5 99
			20	"	"	5 99
			21	"	"	5 99
			22	"	"	5 99
			1	89	"	6 54
			2	"	"	6 54
			3	"	"	6 54
			4	"	"	6 54
			5	"	"	6 54
			6	"	"	6 54
			7	"	"	6 54
			8	"	"	5 45
			9	"	"	5 45
			10	"	"	5 45
			11	"	"	5 45
			12	"	"	5 45
			13	"	"	5 45
			14	"	"	5 45
			15	"	"	5 45
			16	"	"	5 45
			17	"	"	5 45
[98]			18	89	1874	5 45
			19	"	"	5 45
			20	"	"	5 45
			21	"	"	5 45
			22	"	"	5 45
University sub. of the pt. of the S. ½ of the S. W. ¼ of 7, 41, 14, lying E. of the center of Sherman avenue, in the town of Evanston; also, a strip of land 251 ft. deep, E. & W., lying W. of & adj. the N. ½ of the above described land.			1	92	1874	5 99
			2	"	9.45 / 1873 / 5.99 / 1874	15 44
			2	"		
Northwestern University.	That part west of Sherman ave. & S. of Noyes st., 7, 41, 14, 8				1874	122 66
N. W. University	Ex. land subdivided as blks. 90, 91, 92		9		1874	479 82
90	Geo. Smith's subd. of S. sec. Wilmette Reserve, University sub. of 21, 22, & S. ½ 20			13	1874	1 93
				14	"	1 93
				15	"	1 93
				16	"	1 93
				17	"	1 93
				18	"	1 93
				19	"	1 93
				20	"	1 93
Geo. Smith's sub. of the S. part of the Archange Wilmette Reserve, ex. W. 4 $\frac{4.5}{100}$ ac			17	15.92/100	1874	54 03
			18	20.35/100	"	68 47

Name of owner.	Part or lot of land.	Sub-lot.	Lot.	Block.	Assessment.	
Wilmette Village, a sub. of W. 63.33 chs. of N. sec. Wilmette Reserve; also, the 40 ft. N. & adj. the center of North ave. and the 33 ft. S. & adj. the center of S. ave.	.....		1	13	1874	1 61
			2	"	"	1 61
			3	"	"	1 61
			4	"	"	1 61
			5	"	"	1 61
			6	"	"	1 61
			7	"	"	1 61
			8	"	"	1 61
			9	"	"	1 61
			10	"	"	1 61
			11	"	"	1 61
			12	"	"	1 61
[100]			13	13	1874	1 61
			14	"	"	1 61
			15	"	"	1 61
			16	"	"	1 61
			17	"	"	1 61
			18	"	"	1 61
			19	"	"	1 61
			20	"	"	1 61
			21	"	"	1 61
			22	"	"	1 61
			23	"	"	1 61
			24	"	"	1 61
			25	"	"	1 61
			26	"	"	1 61
			15	15	"	2 38
			16	"	"	2 38
			17	"	"	2 38
			18	"	"	2 38
			14	16	"	2 00
			15	"	"	2 00

101 For the sum of six thousand five hundred sixty-two dollars and fifteen cents, from which said judgment of the said county court of Cook County the said Northwestern University ha' prayed for and obtained an appeal to the supreme court of the State of Illinois.

Now, therefore, if the said Northwestern University shall duly prosecute its said appeal with effect, and, moreover, pay the amount of the judgment, costs, interests, and damages rendered and to be rendered against said lots and lands, in case the said judgment shall be affirmed in said supreme court, then the above obligation to be void, otherwise to remain in full force and virtue.

NORTHWESTERN UNIVERSITY, [SEAL.]
By S. JUDSON & *Acting V. Pres't.* [SEAL.]
THOMAS C. HOAG. [SEAL.]
ORBINGTON LUNT. [SEAL.]

Witness:
I. G. HAMILTON,
Secretary.

July 19th, 1875.

M. R. M. WALLACE,
Judge of the County Court.

102 STATE OF ILLINOIS,
County of Cook, ss:

Pleas before the honorable Martin R. M. Wallace, sole presiding judge of the county court of Cook County, in the State of Illinois, at a term of said court begun and held at the court-house in Chicago, in said county, on the third Monday (being the nineteenth day) of July, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States of America the one hundredth.

Court opened by proclamation.

Present thereat: Hon. Martin R. M. Wallace, judge of the county court of Cook County; Francis Agnew, sheriff of Cook Co.

Attest:

HERMANN LIEB,
Clerk of the County Court of Cook County.

Northwestern University.

And now on this day comes the Northwestern University, by Grant Goodrich, its attorney, and presents to the court its appeal bond, duly executed, in the penal sum of fifteen thousand dollars, with the Northwestern University, Thomas C. Hoag, and Orrington Lunt,
103 as sureties, in the matter of the appeal heretofore prayed from the judgment of this court, against the following-described real estate, to wit: Lots one (1), two (2), seven (7), eight (8), nine (9), the south fifty (50) feet of west one hundred and eighty (180) feet of lot ten (10), and lots eleven (11) and twelve (12) in block two (2); lots one (1) to five (5); and (except the east) one hundred and eighty (180) feet of lot seven (7), and lots eleven (11) to fourteen (14), inclusive, in block three (3); lots fourteen (14) to eighteen (18(, inclusive, in block five (5); lots seven (7) to nine (9), inclusive, in block six (6); (except improvements on) lots five (5), eight (8), and nine (9), in block (7); lots one (1) to five (5), and (except improvements on) lots six (6) to ten (10), inclusive, in block eight (8); lots two (2), three (3), four (4), five (5), and (except improvements of) lots (6) and seven (7) in block ten (10); and (except improvements) lots five (5) to ten (10), inclusive, in block fifteen (15); the north half (½) of lots two (2) and three (3), and (except improvements) lots seven (7) to ten (10) in block sixteen (16), (except improvements), lots five (5) to eight (8), inclusive, and lots nine (9), ten (10) and eleven (11), in block seventeen (17); also (except improvements) lots fourteen (14) to nineteen (19), inclusive, in said block seventeen (17); (except improvements) on lots three (3) to seven (7), inclusive, and lots eight (8), nine (9), and ten (10), in block eighteen (18), (except improvements)
104 sub-lots one (1) to five (5), inclusive, of lots two (2) and three (3), in block nineteen (19); (except improvements), sub-lots five (5) of lot five (5), block nineteen (19); and (except improvements) sub-lots two (2) to five (5), inclusive, of lots eight (8) and nine (9), in block nineteen (19); except improvements west thirty (30) feet of west fifty (50) feet of lots ten (10) and eleven (11) in block nineteen (19); excepting improvements, lots ten (10) to twelve (12), inclusive, in block twenty (20); except improvements, block twenty (20); except improvements, sub-lots five (5) to seven (7), inclusive, of lots four (4), five (5), and six (6), in block twenty-five (25); except improvements, sub-lots one (1) to seven (7), inclusive, of lots eleven (11) and twelve (12), in block twenty-six (26); except improvements, lots seven (7) and eight (8), and sub-lots one (1) to four (4), inclusive, of lots eleven (11) & twelve (12), in block twenty-seven (27); except improvements, block twenty-eight (28); except improvements, lots seven (7) to twelve (12), in block twenty-nine (29); except improvements, five (5) to nine (9), inclusive, in block thirty-one (31); lots five (5) to nine (9), inclusive, in block thirty-two (32); lots fourteen (14) to eighteen (18), in block thirty-three (33); except improvements, north one-third (⅓) of block thirty-four (34), lots four (4) and five (5), in block thirty-six (36), lots seven (7), eight (8), nine (9), and (except improvements)
105 lots twelve (12) and thirteen (13), in block thirty-seven (37); lots eight (8), nine (9), ten (10), and, except improvements, lots thirteen (13) and fourteen (14), in block thirty-eight (38), east forty (40) feet

of west one hundred (100) feet of lots one (1) and two (2), and west one hundred (100) feet of south fifty (50) feet of lot three (3), in block sixty-eight (68), north two thirds ($\frac{2}{3}$) of block seventy-two (72); lot eight (8) and lots thirteen (13) to seventeen (17), inclusive, in block seventy-four (74); lots thirteen (13) to seventeen (17), inclusive, and south half ($\frac{1}{2}$) of lot twenty (20), in block seventy-five (75); lots seven (7), eight (8), eleven (11), twelve (12), twenty (20), and twenty-one (21), in block seventy-six (76); lots five (5) to thirteen (13), inclusive, and seventeen (17) to twenty (20), inclusive, in block seventy-seven (77); lots one (1) to six (6), inclusive, and nineteen (19), twenty-one (21), twenty-two (22), in block seventy-eight (78); lots eight (8) to twenty (20), in block seventy-nine (79); lots twelve (12) to nineteen (19), inclusive, in block eighty (80); lots one (1) to three (3), inclusive, eight (8) to eleven (11), inclusive, and fifteen (15) to eighteen (18), inclusive, in block eighty one (81), all in the village of Evanston, comprising part of section twelve (12), thirteen (13), and fourteen (14), and all of section seven (7) and eighteen (18), and part
106 of section nineteen (19), town. forty-one (41), range thirteen (13); lots one (1) to four (4), inclusive, and lots (9) to twenty-two (22), in block eighty-three (83); lots one (1) to twenty (20), in block eighty-four (84); lots one (1) to four (4) and seven (7) to twenty (20), inclusive, in block eighty-five (85); lots one (1) to twenty (20), inclusive, in block eighty-six (86); lots one (1) to twenty-two (22), inclusive, in block eighty-seven (87); lots one (1) to twenty-two (22), inclusive, in block eighty-eight (88); lots one (1) to twenty-two, inclusive, in block eighty-nine (89), all in the Northwestern University subdivision of that part of the southeast quarter ($\frac{1}{4}$) (lying west of Chicago avenue) of section seven (7), town. forty-one (41), range fourteen (14); lots one (2) and two (2), in block ninety-two (92), in University subdivision in that part of the south half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section seven (7), town. forty-one (41), range fourteen (14), lying east of the centre of Sherman avenue, in the town of Evanston.

Also a strip of land two hundred and fifty-one (251) deep, east and west, lying west of and adjoining the north half ($\frac{1}{2}$) of the said described land; that part west of Sherman avenue and south of Noyes street of section seven (7), town. forty-one (41), range eight (8), and except
107 land subdivided as blocks ninety (90), ninety-one (91), and ninety-two (92); lot nine (9) in assessor's subdivision of section seven (7), town. forty-one (41), range fourteen (14), blocks thirteen (13) to twenty (20), inclusive, in University subdivision of lots *of lots* twenty-one (21), twenty-two (22), and south half twenty (20) of George Smith's subdivision of south section Quillmette Reserve, except west four and four hundred and forty-four one-thousan'th ($4\frac{444}{1000}$) acres of lot seventeen, ($15\frac{92}{100}$) acres, and lot eighteen (18), in George Smith's subdivision of the south part of the Archange Quilmette Reserve; lots one (1) to twenty-six (26), inclusive, in block thirteen (13); lots fifteen (15) to eighteen, inclusive, in block (15); and lots fifteen (15) and fourteen (14), in block sixteen, in Wilmette Village.

M. R. M. WALLACE, *Judge.*

STATE OF ILLINOIS,
County of Cook, ss:

I, Hermann Lieb, clerk of the county court of Cook County, in the State of Illinois, do hereby certify the above and foregoing to be a true, perfect, and complete transcript of all papers now on file in my office, and of all orders made and entered of record in said court, together
108 with the bill of exceptions and appeal bond now on file herein, so

far as the same relate to or affect the lots, pieces, or parcels of land in the foregoing transcript mentioned, in the matter of the application of Henry B. Miller, county treasurer and ex-officio county collector of the revenue of Cook County, for judgment for the delinquent State, county, town, school, road, and park taxes and assessments, levied and assessed upon the lands and lots in the county of Cook and State of Illinois, for the year 1874, and for judgment for the amounts for which lands and lots were forfeited to the State of Illinois for unpaid taxes, at the tax sales for taxes of 1873, and back taxes of 1873 added, together with interest and costs due and unpaid thereon. All of which appears from the records on file in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Chicago, this second day of September, A. D. 1875.

[SEAL.] HERMANN LIEB,
Clerk of the County Court of Cook County, Illinois.

109 *Assignment of errors in Supreme Court.*

Supreme court of Illinois, northern grand division. September term, A. D. 1875.

THE NORTHWESTERN UNIVERSITY, APPELLANT,
vs.
THE PEOPLE, EX REL. HENRY B. MILLER, county treasurer and ex-officio county collector.

Appeal from county court of Cook County.

First. The court below erred in overruling the objections of appellant and rendering judgment against the property of appellant.

Second. The judgment of the court below is contrary to law, wherefore appellant prays judgment, &c.,

SIDNEY SMITH and
GOODRICH and PATTERSON,
Attorneys for Appellant.

110 And afterwards, to wit, on the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and seventy-five, the same being one of the days of said term.

THE NORTH WESTERN UNIVERSITY,
vs.
THE PEOPLE, ETC., EX REL. HENRY B. Miller, etc.

Appeal from the county court of Cook County.

This day this cause coming on to be heard, and it appearing to the court now here that a transcript of the record, and proceedings of the court below, and also abstracts and briefs have been filed herein, in accordance with the rules of this court; it is therefore considered and ordered by the court that this cause be now taken under advisement.

And afterwards, to wit, on the thirtieth day of June, in the year of our Lord one thousand eight hundred and seventy-six, the same being in vacation after the September term, A. D. 1875, of said court.

THE NORTH WESTERN UNIVERSITY
vs.
THE PEOPLE, EX REL. HENRY B. Miller, etc. } No. 159.

Appeal from the county court of Cook.

Opinion per curiam. Filed June 30, 1876.

111 This case is, in all respects, the same as docket No. 261, at the present term, between the same parties, and for the reason there given the judgment is affirmed.

Affirmed.

The following is the opinion in case No. 261, above referred to, to wit:

Opinion by Scholfield, J.—Filed June 30th, 1876.

This appeal is from a judgment rendered by the Cook County court against certain lands and town lots in the towns of Evanston and Willmette, in Cook County, for delinquent taxes.

Appellant's claim is that the lands and town lots are exempt from all taxation, which claim is based on the fourth section of an amendment to its charter, approved Feb'y 14th, 1855, in these words: "That all property, of whatever kind or description, belonging to or owned by said corporation, shall be forever free from taxation for any and all purposes."

It is conceeded by a stipulation read in evidence on the trial in the court below, and made part of the record, that the lands and town lots, the taxation on which is in controversy, are leased by appellant to different parties, on leases for a longer or a shorter time, and
112 that none of them are used or occupied for buildings or other direct appliances for education.

The question we propose to consider is, conceeding that the clause we have quoted from appellant's charter is, as it seems to be, broad enough to comprehend these lands and town lots, was it competent for the general assembly, under the constitution of 1848, which was in force at the date of that enactment, to grant an exemption so broad and sweeping in its character? It was provided by section three, article nine, of that instrument, "The property of the State and counties, both real and personal, and such other property as the general assembly may deem necessary for school, religious, and charitable purposes, may be exempt from taxation."

It is not claimed that appellant is in any sense a public corporation, but it is claimed that the purpose for which it is created is so far beneficial to the public that it affoards a sufficient consideration for the grant of exemption from taxation in the amendment, and that when the amendment was accepted and acted upon by the corporation, it must be held a vested right which cannot be withdrawn by subsequent legis-
113 lation, because of the provision in the Constitution of the United States which prohibits a State from passing a law impairing the obligation of a contract.

If it was competent for the general assembly to make the exemption,

we are not disposed to contest the correctness of this position; but if it was not competent to make the exemption, the attempt was a nullity, and the case is not affected by the Constitution of the United States.

The corporation being private, the tax-payer, in general, is relieved of no obligation in consequence of the exemption which he would otherwise have to discharge by the payment of taxes, and in proportion as appellant becomes the owner of property which is thereby withdrawn from taxation, the burden of taxation is increased upon him.

The equality between burden and benefit in such cases is presumptive only, and can, if at all, only be true in fact in reference to the public as an aggregate. In the very nature of things, such exemptions must proportionately increase the burdens upon individual tax-payers, in many cases, where there can be no corresponding actual benefit. It is true it is impracticable that there can, in any instance of the levy and collection of public taxes, be an actual equivalent received by every
111 tax-payer for the full amount he pays, or that there can be any system of taxation devised so perfect in its practical operation that there shall be no inequality in the distribution of the burden; but it has always been recognized that laws imposing taxes are just and equitable in proportion as they approximate such principles, and unjust and inequitable as they depart from them. The general principle upon which taxation was required to be levied by the constitution of 1848 was that of uniformity, and exemptions were exceptional, and therefore to be construed strictly; and such is the general rule of construction in regard to exemptions from taxation. Cooley on Taxation, 146; Sedgewick on Stat. and Const'l Law, 632.

As is said in a recent case by the Supreme Court of the United States (Lucken vs. Fergason, 22nd Wallace, 575), "The taxing power is vital to the functions of government. It helps to support the social compact and gives it efficacy. It reaches the interest of every member of the community. It may be restrained by contract in special cases for the public good, where such contracts are not forbidden. But the contract must be shown to exist—there is no presumption in its favor. Every reasonable doubt should be resolved against it. Where it
115 exists it is to be rigidly scrutinized, and never permitted to extend, either in scope or duration, beyond what the terms of the concession clearly requires. It is in derogation of public right, and narrows a trust created for the good of all."

Bearing in mind this rule of construction, if it had been intended the general assembly was to be empowered to exempt all property of whatever kind or description, as is assumed to be done by the amendment to the charter, we must suppose it would have been so said in unmistakeable language. By the language of the constitution we have quoted, while a discretion is conferred on the general assembly whether to exempt or not, and, if it shall determine to exempt, the amount of the exemption, it is clearly restricted in the exercise of this discretion to property for schools and for religious and charitable purposes; property for such purposes, in the primary and ordinary acceptation of the term, is property which is itself adapted to and intended to be used as an instrumentality in aid of such purposes. It is the direct or immediate use, and not the remote or consequential benefit to be derived through the means of the property, that is contemplated. Houses, furniture,
116 grounds, &c., to be actually used for educational purposes may be said to be for schools or for school purposes, but property to be used in farming, or manufacturing, or in trades, is property for farming, for manufacturing, or for trade, and the purpose to

which the resulting profits may be devoted does not change its character. So property owned by corporations created for school, religious, or charitable purposes, and property for school, or religious, or charitable purposes by no means necessarily mean the same thing. The ownership may extend to all kinds of property authorized by the charter, whether it is such as is to be actually used in connection with the purposes of the incorporation or otherwise; but property for the purposes of the incorporation must be such as to be used in connection with those purposes. An accurate description of the property, the tax upon which is in controversy, would seem to be "property used for profit for the benefit of the university."

As illustrative, and in support of the construction, the following cases, which, though arising on the construction of statutes, are equally pertinent to the construction of like clauses in constitutions, may be referred to. In the first M. E. Church vs. The City of Chicago (26 Ill's, 482), the question was, whether under a statute exempt-
117 ing from taxation every building erected for the use of any literary, religious, benevolent, charitable, or scientific institution, a building was exempted of which the third and fourth stories were in one large room, used exclusively for religious purposes, while the first and second stories were rented for compensation, and the proceeds applied to religious purposes; and it was held the portion rented for compensation was taxable, and the portion occupied for religious purposes was not. The court said: The meaning of the law is, as applied to religious buildings and furniture, that they must be used directly for sacred and not for secular purposes. It is not enough that the profits or income of the secular uses are to be applied to sacred purposes. When money is made by the use of the building, that is profit. No matter to what purpose that money is applied. It will be observed that the words of the statute there, in describing the building to be exempted, are: 'Any building for the use of any literary or religious society,' &c., and the argument that the fact that the profits derived from renting were devoted exclusively to religious purposes showed that the
118 rooms rented, as well as the balance, were for the use of the religious society, was equally as forcable and rested on the same premises as does the argument here that the property is for schools, or the purposes of schools, although it is devoted to agricultural or other purposes entirely disconnected from schools, because the profits to be derived from renting it are to be appropriated in aid of the university.

In Pierce vs. The Inhabitants of Cambridge (2nd Cushing, 612), the statute exempted from taxation "the personal property of all literary, benevolent, charitable, and scientific institutions, and such real estate belonging to such institutions as shall be actually occupied by them or by the officers of such institutions for the purposes which they were incorporated."

The plaintiff was a professor of mathematics and astronomy in Harvard College, and the house and land which he occupied was the property of the college, but had been let to him at a rent of $400 a year, and the question was whether this property was within the exemption of the statute. It was held that it was not; that the occupation of the lessee was not such an occupation as was intended by the statute, but that it would have been otherwise if the building had been erected by one of the professors or officers of the college, and had been occupied by
119 the plaintiff with the permission of the college and without having any estate therein or paying any rent therefor. Washburn College vs. Com'rs of Shawnee County (8th Kansas, 344) pre-

sented the question whether a quarter section of land held by the plaintiff, which was a literary and educational institution, for the sole purpose of thereafter erecting its permanent buildings thereon, but which was, at that time, unimproved and unoccupied, was exempt from taxation under a clause in a statute exempting from taxation "all property used exclusively for State, county, municipal, literary, educational, scientific, religious, and charitable purposes," and it was held that it was not. See also Ord vs. Baker (4 Ind., 86); Methodist Church vs. Ellis (38th Ind., 3); Lowell vs. Lowell (1st Metcalf, 538); State vs. Ross (4th Zabriskie, 497); Wyman vs. S't Louis, 17th Mo., 335).

Our conclusion is that it was not competent for the general assemby to exempt from taxation property owned by educational, religious, or charitable corporations which was not itself used directly in aid of the purposes for which the corporations were created, but which was held for profit merely, although the profits were to be devoted to the proper purposes of the corporation.

To the extent thereof, that the 4th section of the amendment
120 to appellant's charter, approved Feb'y 14th, 1855, assumes to do so, it is to be considered void and of no effect, but no further. The judgment is affirmed.

Affirmed.

And, to wit, on the same thirtieth day of June, in the year of our Lord one thousand eight hundred and seventy-six, being in vacation after said September term, A. D. 1875, of said court:

On this day came again the said parties, and the court having diligently examined and inspected, as well the record and proceedings aforesaid as the matters and things assigned for error, and being now sufficiently advised of and concerning the premises, for that it appears to the court now here that neither in the record and proceedings aforesaid nor in the rendition of the judgment aforesaid is there anything erroneous, vicious, or defective, and that that record is no error; therefore, it is considered by the court that the judgment aforesaid be affirmed in all things, and stand in full force and effect, notwithstanding the matters and things therein assigned for error.

121 And it is further considered by the court, that the said appellees recover of and from the said appellants their costs by them in this behalf expended, and that they have execution therefor.

122 And afterwards, to wit, on the eighth day of September, in the year of our Lord one thousand eight hundred and seventy-six, the same being in vacation after said September term, A. D. 1875, of said supreme court, the following citation was filed in the office of the clerk of said court:

UNITED STATES OF AMERICA, *ss:*

To the people of the State of Illinois, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of October, to wit, on the ninth day of October next, pursuant to a writ or error issued by the clerk of the circuit court of the United States for the northern district of Illinois, and filed in the office of the clerk of the supreme court of the State of Illinois for the northern grand division of Illinois, wherein the Northwestern University is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be cor-

rected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Benjamin R. Sheldon, chief justice of
123 the supreme court of the said State of Illinois, this eighth (8th) day of September, in the year of our Lord one thousand eight hundred and seventy-six.

BENJ. R. SHELDON,
Chief Justice Sup. Court, Illinois.

(Endorsed:) Filed Sept'r 8, 1876. C. D. Trimble, clerk.

And, to wit, on the same eighth day of September, in the year of our Lord one thousand eight hundred and seventy-six, the following stipulation was filed herein:

Supreme Court of the United States, October Term, A. D. 1876.

UNITED STATES OF AMERICA, *ss:*

THE NORTHWESTERN UNIVERSITY, PLAINTIFF in error,
vs.
THE PEOPLE EX REL. HENRY B. MILLER, county treasurer and ex officio county collector, defendant in error.

Error to the supreme court of Illinois.

We hereby waive service of citation, and agree to enter our appearance in the above entitled cause, and consent that the bond to be
124 filed in said cause shall operate as a supersedeas when filed, if filed within ten days from this date.

Sept. 8, 1876.

JOHN M. ROUNTREE,
Att'y for the People & Co., Att'y of Cook County.

(Endorsed:) Filed Septr, 8, 1876. C. D. Trimble, clerk.

And, to wit, on the same eighth day of September, in the year of our Lord one thousand eight hundred and seventy-six, the following appeal bond was filed herein:

THE NORTHWESTERN UNIVERSITY
vs.
THE PEOPLE EX REL, HENRY B. MILLER, treasurer, etc.

Know all men by these presents that we, The Northwestern University, as principal, and Jabez K. Botsford, of the city of Chicago, and J. J. Parkhurst and Orrington Lunt, as sureties, of the village of Evanston, in the county of Cook and State of Illinois, are held and firmly bound unto the people of the State of Illinois in the penal sum of ten thousand dollars ($10,000.00), to be paid to the said people of the State of Illinois. To which payment well and truly to be made we bind ourselves and each of us, jointly and severally, and our and each of
125 our successors and assigns, heirs, executors, and administrators, firmly by these presents.

Whereas the above named The Northwestern University hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above-entitled action by the supreme court of the State of Illinois:

Now, therefore, the condition of the obligation is such that if the above named The Northwestern University, shall prosecute its said writ of error to effect, and answer all costs and damages if it shall fail to make good its plea, then this obligation shall be void; otherwise to remain in full force and virtue.

Witness the seal of said Northwestern University, and the hands and seals of the said sureties, this twenty-fifth day of August, A. D. 1876.

[SEAL.] NORTHWESTERN UNIVERSITY,
By ORRINGTON LUNT,
Vice President.

ORRINGTON LUNT. [SEAL.]
J. J. PARKHURST. [SEAL.]
JABEZ K. BOTSFORD. [SEAL.]

Attest:

J. G. HAMILTON, *Sec'y.*

Approved. BENJAMIN R. SHELDON, *Chief Justice.*

(Endorsed): Filed Sept'r 8, 1876. C. D. Trimble, clerk.

126 STATE OF ILLINOIS,
Cook County, ss:

By the undersigned, notary public, Orrington Lunt, J. J. Parkhurst, and Jabez K. Botsford, being severally duly sworn, deposed and said, each for himself, that he is worth the sum of at least ten thousand dollars over and above all debts and liabilities, and exclusive of property exempt from execution and as homestead.

In witness whereof I have subscribed my name as notary public and attached my notarial seal this 26th day of August, A. D. 1876.

[SEAL.] HORACE G. LUNT,
Notary Public.

And, to wit, on the same eighth day of September, in the year of our Lord one thousand eight hundred and seventy six, the following certificate was filed herein:

In the supreme court of the State of Illinois.

THE NORTHWESTERN UNIVERSITY
vs.
THE PEOPLE EX REL. HENRY B. MILLER, treasurer and ex-officio collector of Cook County.

Appeal from the county court of Cook County.

127 This certifies that in the above case the plaintiff in error, or appellant, claimed that the lands owned by it, which the said county court held to be subject to taxation, were exempt from taxation under the terms of its charter, and that such charter was a contract substantially guaranteed and protected by the Constitution of the United States, and that such claim was decided adversely to the said appellant by the said supreme court; and such fact is hereby duly certified, to the

end that the said appellant may present the said question to the Supreme Court of the United States for adjudication.

Witness the Honorable B. R. Sheldon, chief justice of the supreme court of the said State of Illinois, this 8th day of September, in the year of our Lord one thousand eight hundred and seventy-six.

BENJ. R. SHELDON,
Chief Justice Sup. Court, Illinois.

(Endorsed:) Filed Sept'r 8, 1876. C. D. Trimble, clerk.

128 *Assignment of errors & prayer for reversal.*

THE NORTHWESTERN UNIVERSITY
vs.
THE PEOPLE OF THE STATE OF ILLINOIS EX rel. Henry B. Miller, treas., &c.

In the Supreme Court of the U. S., by writ of error to the supreme court of the State of Illinois.

The plaintiff in error says that the supreme court of the State of Illinois, in its proceedings and judgment in said cause, erred:

First. In adjudging that no valid contract existed between the State of Illinois and the pl'ff in error by virtue of the charter granted to it by said State, and its acceptance thereof, and actions thereunder, whereby the pl'ff in error was protected by the Constitution of the United States from the taxation complained of in these proceedings.

Second. In adjudging that the provision of the charter of pl'ff in error exempting its property from taxation was in conflict with the
129 constitution of the State of Illinois and void.

Third. In adjudging that the lands or lots owned by pl'ff in error, and described in these proceedings, were subject to taxation for State, county, and other purposes, for the year 1874, under the constitution and laws of the State of Illinois, notwithstanding their exemption by the charter of pl'ff in error, granted by said State of Illinois, and accepted by pl'ff in error.

Wherefore the pl'ff in error prays for the reversal of the said judgment of the supreme court of the State of Illinois.

WIRT DEXTER,
Att'y & of Counsel for Pl'ff in Error.

(Indorsed:) The Northwestern University vs. The People of the State of Ill. ex rel. Miller. Assignment of errors & prayer for reversal. Filed August 26, 1876. C. D. Trimble, cl'k. Wirt Dexter, for pl'ff in error.

130 STATE OF ILLINOIS,
Northern Grand Division, ss:

I, Cairo D. Trimble, clerk of the supreme court in and for the northern grand division of the State of Illinois, for return to the annexed writ of error, do hereby certify the above and foregoing to be a true copy of the record and proceedings of said supreme court in a certain cause entitled herein The Northwestern University versus The People of the State of Illinois ex relatione Henry B. Miller, treasurer and ex-officio collector of Cook County.

And I further certify that said writ of error, together with a copy for the defendant in error, were duly served upon and lodged with me, as such clerk, on the 26th day of August, A. D. 1876.

And I further certify that the assignment of errors, bond, citation, stipulation of waiver, and certificate of the honorable Benj. R. Sheldon, chief justice of the supreme court of Illinois, with the endorsements thereon above set forth, were all duly lodged in my office prior to the ninth day of September, A. D. 1876, and filed of record therein.

In testimony whereof I have hereunto set my hand and affixed the seal of said supreme court, at Ottawa, in said State, this fifteenth day of September, in the year of our Lord one thousand eight hundred and seventy-six.

[SEAL.] C. D. TRIMBLE, *Clerk.*

131 I do hereby certify that the annexed certificate and attestation of Cairo D. Trimble are in due form of law; and I do further certify that he is the clerk of the supreme court for the northern grand division of the State of Illinois, and that his signature to said certificate is genuine.

Given at Ottawa, September 15, 1876.

BENJ. R. SHELDON,
Chief Justice Supreme Court Ill's.

(Indorsement on cover:) No. 184. The Northwestern University, plaintiff in error, vs. The People ex rel. Henry B. Miller, county treasurer Cook County. Illinois sup. court. Filed 4th October, 1876.

IN THE

Supreme Court of the United States,

October Term, A. D. 1878.

THE NORTHWESTERN UNIVERSITY, Plaintiff in Error,
vs.
THE PEOPLE *ex rel.* HENRY B. MILLER, County Treasurer of Cook County, Illinois, Defendants in Error.

Error to the Supreme Court of the State of Illinois.

Brief and Argument for Plaintiff in Error.

WIRT DEXTER,
Att'y for Plaintiff in Error.

CHICAGO:
PRESS OF BEACH, BARNARD & CO., LEGAL PRINTERS, NO. 104 RANDOLPH STREET.
1879.

IN THE

Supreme Court of the United States,

October Term, A. D. 1878.

THE NORTHWESTERN UNIVERSITY, Plaintiff in Error,
vs.
THE PEOPLE *ex rel.* HENRY B. MILLER, County Treasurer of Cook County, Illinois, Defendants in Error.

Error to the Supreme Court of the State of Illinois.

Brief and Argument for Plaintiff in Error.

WIRT DEXTER,
Att'y for Plaintiff in Error.

CHICAGO:
PRESS OF BEACH, BARNARD & CO., LEGAL PRINTERS, NO. 104 RANDOLPH STREET.
1879.

IN THE

Supreme Court of the United States,

October Term, A. D. 1878.

THE NORTHWESTERN UNIVERSITY, Plaintiff in Error,
vs.
THE PEOPLE *ex rel.* HENRY B. MILLER, County Treasurer of Cook County, Illinois, Defendants in Error.

Error to the Supreme Court of the State of Illinois.

STATEMENT OF FACTS.

In 1851, the legislature of the State of Illinois, passed an act entitled "An act to incorporate the Northwestern "University." (Rec., p. 12.)

By section 1, certain persons named, and their successors, were constituted a body politic and corporate, under the name of the "Trustees of the Northwestern Univer- "sity," with the usual corporate powers.

Section 2 provided that the trustees should hold the property of the institution "*solely for the purposes of edu-* "*cation*, and not as a stock for the individual benefit of "themselves, or any contributor to the endowment of the "same, and no particular religious faith shall be required "of those who become students of the institution."

Section 3 provided for the appointment of visitors to the university, to attend the examination of students, and to participate in the deliberations of the trustees.

Section 4 provided that the institution should remain located in or near Chicago, and that the corporators and their successors should have power to take, in their corporate name, "real, personal, or mixed estate, by gift, "grant, bargain and sale, conveyance, will, devise or be- "quest, by any person or persons whomsoever; and the "same estate, whether real personal or mixed, to grant, "bargain, sell, convey, devise, let, place out at interest, or "otherwise dispose of the same for the use of said institu- "tion, in such manner as to them shall seem most bene- "ficial to said institution."

This section also provided as follows: "Said corpora- "tion shall faithfully apply all the funds collected, or the "proceeds of the property belonging to said institution, ac- "cording to their best judgment, in erecting and com- "pleting suitable buildings, supporting necessary offi- "cers, instructors, and servants, and procuring books, "maps, charts, globes, and philosophical, chemical, and "other apparatus necessary to the success of the institu- "tion, and do all other acts usually performed by simi- "lar institutions, that may be deemed necessary or useful "for the success of said institution, under the restrictions "herein imposed."

Section 6 authorized the corporation to employ and appoint a president or principal of the institution, and such professors or teachers as might be necessary, and to prescribe and direct the course of study to be pursued.

Section 7 conferred power "to establish departments "for the study of any and all the learned and liberal pro- "fessions in the same: to confer the degree of Doctor in "the learned arts and sciences, and belles-lettres, and to

" confer such other academical degrees as are usually " conferred by the most learned institutions."

Section 9 provided for the institution of proceedings to forfeit the charter, if the corporation should at any time " act contrary to the provisions of this charter, or fail to " comply with the same."

And, also, that the act should be a public act, and should be " construed liberally in all courts for the purposes " herein expressed."

In 1855, an amendment to this charter was adopted. (Rec., p. 14.)

By section 1 of this amendment, it was provided that four persons named, and their successors, should be constituted additional members of the Board of Trustees.

Sections 2 and 3 prohibited the sale of intoxicating liquors within four miles of the location of the University, and conferred power on the corporation to take property in trust.

Section 4 was as follows :

" *All property, of whatever kind or description, belong-* " *ing to, or owned by said corporation, shall be forever free* " *from taxation for any and all purposes.*"

In 1861, and again in 1867, further amendments to the charter were passed, making additional changes in the organization of the Board of Trustees. (Rec., pp. 15 and 16.)

By section 1 of the last amendment, it was provided, that the name of the corporation should be changed to " Northwestern University," and that by that name it should " have and exercise all the powers and immunities " conferred on said corporation by said act of incorpora- " tion, and all acts amendatory thereof."

The charter and its amendments were accepted by the corporators, and over two hundred thousand dollars, realized from donations and from the sale of lots and lands,

have been since expended, in the erection and purchase of buildings, apparatus, and other facilities and appliances for education, and for the promotion of the objects stated in and contemplated by the act. (Rec., p. 11.)

The institution thus established, is located at Evanston, about twelve miles north of Chicago, and constitutes a University, with several departments, in which more than five hundred students are being taught the higher branches of learning. (Rec., p. 11.)

Article 9, section 3, of the Constitution of 1848, in force at the time the charter and amendments were passed, was as follows: "The property of the State and counties, "both real and personal, and such other property as the "General Assembly may deem necessary for school, re-"ligious and charitable purposes, may be exempted from "taxation." (Rev. Stat. Ills. 1874, p. 52.)

Prior to the adoption of the Constitution of 1848, no charter had been granted by the Legislature of the State conferring full exemption from taxation.

At every session of the Legislature succeeding the adoption of this Constitution, and until the new Constitution of 1870, charters, creating educational and charitable institutions, were passed by the Legislature and approved by the executive, which contained clauses giving full exemption from taxation of all property held by them. These charters were 110 in number, and in point of time were granted as follows: 1 in 1849, 3 in 1851, 1 in 1852, 3 in 1853, 12 in 1855, 17 in 1857, 7 in 1859, 9 in 1861, 6 in 1863, 14 in 1865, 17 in 1867, 20 in 1869. During the same period, 42 other charters were granted to similar institutions, conferring partial exemption from taxation.

We file herewith a supplement showing the number, nature and dates of the exemptions, in tabulated form, and the name of each of the corporations, the date of the passage, of the charter, and the clause of exemption in full.

In 1870, a new Constitution was adopted, and in substitution for Article 9, section 3, above quoted, the following provision was adopted, (Art. 9, section 3): "The property "of the State, counties and other municipal corporations, "both real and personal, and such other property as may "be used exclusively for agricultural and horticultural so- "cieties, for school, religious, cemetery and charitable "purposes, may be exempted from taxation; but such ex- "emption shall be only by general law." (Rev. Stat. Ills. 1874, p. 75.)

At the next succeeding session, the legislature proceeded to revise the whole body of the general laws of the State, in order to adapt them to the provisions of the new organic law, and a committee of revision was appointed for that purpose. At this session (1872), a new revenue law was adopted, revising the old law on the subject. (Rev. Stat. Ill. 1874, p. 857.)

Section 1 of this law provided that "all real and per- "sonal property in this State," "except so much thereof "as may be in this act exempted," should be assessed and taxed.

Section 2 provided that the property therein described, "to the extent herein limited," should be exempt. The only exemption in favor of institutions of learning, was as follows:

"All property of institutions of learning, including the "real estate on which the institutions *are located, not leased* "*by such institutions, or otherwise used with a view to* "*profit.*"

Under the provisions of this law, the State authorities assessed for taxation a large amount of real estate owned by the plaintiff in error.

In 1874, this property was included in the annual tax levy, for State, county and town taxes for that year, the taxes thus levied amounting to $6,644.15. An application

was made to the County Court of Cook County for judgment and sale of the property for non-payment of these taxes. The plaintiff in error appeared and objected to judgment against the property. Written objections were filed, of which the fourth was as follows:

"By the terms of the charter of said Northwestern Uni-
"versity, and the amendments thereto, above referred to, the
"State of Illinois contracted with said corporation, that from
"and after the passage of said act amending said charter, all
"property belonging to or owned by said corporation, of
"whatever kind and description, should be forever free
"from taxation for any and all purposes; which said act
"of incorporation, and said amendments thereto, were
"accepted by said corporation, and are now, and were at
"the time of the levy of said taxes, in full force, and said
"taxes were levied without the assent of said corporation,
"and in violation of said act of incorporation, and the
"amendments thereto." (Rec., p. 7.)

On the trial, it was admitted that all the lots and lands, on which judgment was asked, excepting improvements upon the same, were leased by the University to different parties, for a longer or shorter period, and that all of such lands and lots were held "for sale or lease *for the use and* "*support of said institution, and the objects contemplated* "*in said charter.*" It was also admitted, that "no part "of the campus, or lands occupied by buildings or other "direct appliances of education," was taxed or included in the lands and lots on which judgment was asked. (Rec., p. 11.)

The objections were overruled, and judgment was entered against the property. From this judgment an appeal was taken to the Supreme Court of the State, assigning for error the overruling of the objections and the entry of the judgment. (Rec., p. 46.)

The Supreme Court of Illinois affirmed the judgment

of the Court below, and from this decision a writ of error is prosecuted to this Court.

The certificate of the Chief Justice of the Supreme Court of Illinois, appended to the record, certifies: "That "in the above case, the plaintiff in error, or appellant, "claimed that the lands owned by it, which the said "County Court held to be subject to taxation, were ex- "empt from taxation under the terms of its charter, and "that such charter was a contract substantially guaranteed "and protected by the Constitution of the United States, "and that such claim was decided adversely to the said "appellant by the said Supreme Court." (Rec., p. 52.)

A motion to dismiss the writ of error for want of jurisdiction was made in this Court at the present term, and denied.

The opinion of the Supreme Court of Illinois is incorporated in the record (Rec. p. 47), and is reported as *N. W. University* v. *The People ex rel.*, 80 Ills., p. 333.

The Court conceded that the provision for exemption was broad enough to cover the property in question, and that such property would not be subject to taxation if it was in the power of the General Assembly to make the exemption. (Rec. p. 47.)

The question considered by the Court is thus stated in the opinion: "The question we propose to consider is, *con-* "*ceding that the clause we have quoted from appellant's* "*charter is, as it seems to be, broad enough to comprehend* "*these lands and town lots*, was it competent for the Gen- "eral Assembly, under the Constitution of 1848, which "was in force at the date of that enactment, to grant an "exemption so broad and sweeping in its character?"

The conclusion of the Court is thus stated: "Our con- "clusion is, that it was not competent for the General "Assembly to exempt from taxation property owned by

" educational, religious, or charitable corporations, which " was not itself used directly in aid of the purposes for " which the corporations were created, but which was " held for profit merely, although the profits were to be " devoted to the proper purposes of the corporation. To " the extent, therefore, that the 4th section of the " amendment to appellant's charter, approved February " 14, 1855, assumes to do so, it is to be considered void " and of no effect, but no further."

Assignment of Errors.

The plaintiff in error says that the Supreme Court of the State of Illinois, in its proceedings and judgment in said cause, erred:

First. In adjudging that no valid contract existed between the State of Illinois and the plaintiff in error by virtue of the charter granted to it by said State, and its acceptance thereof, and actions thereunder, whereby the plaintiff in error was protected by the Constitution of the United States from the taxation complained of in these proceedings.

Second. In adjudging that the provision of the charter of the plaintiff in error exempting its property from taxation, was in conflict with the Constitution of the State of Illinois and void.

Third. In adjudging that the lands or lots owned by plaintiff in error, and described in these proceedings, were subject to taxation for State, county, and other purposes for the year 1874, under the Constitution and laws of the State of Illinois, notwithstanding their exemption by the charter of plaintiff in error, granted by said State of Illinois, and accepted by plaintiff in error.

BRIEF AND ARGUMENT.

I.

This Court has jurisdiction to review the decision of the State court, and in the exercise of that jurisdiction, has power to determine the construction to be given to the provision of the State Constitution.

Notwithstanding the decision of the court on the motion to dismiss the writ of error, the question of jurisdiction has been elaborately re-argued in the brief filed for defendants in error.

It is settled by the repeated adjudications of this court, that to confer jurisdiction to review the decision of a State court, it is not necessary that the record should show *in ipsissimis verbis* that a federal question was presented, but it is sufficient if that fact appears by clear and necessary intendment.

Furman v. *Nichol*, 8 Wall., 44.
Murray v. *Charleston*, 96 U. S., 432, and cases cited.

It is equally well settled that it is not necessary, in order to give jurisdiction, that the pleadings in the case should refer to the particular clause in the federal constitution relied upon, or should set out the general law of the State which is alleged to be in violation of the constitution.

In *Furman* v. *Nichol*, 8 Wall., 44, the court say: "The purpose of the petition" (which it was claimed raised "the federal question), "the issue which it presented and "sought to have determined, were as plainly to be "seen, as if the words of the particular constitutional provi- "sion relied on had been inserted in it, and the obnoxious "legislation spread out at length. All courts take notice, "without pleading, of the Constitution of the United States,

"and the public laws of the State where they are exer-
"cising their functions."

The principle to be gathered from all the authorities on this question is stated in the recent case of *Murray* v. *Charleston*, 96 U. S. 442. The court say: "Every-
"where in our decisions it has been held, that we
"may review the judgment of a State court when the de-
"termination or judgment of that court could not have
"been given without deciding upon a right or authority
"claimed to exist under the constitution, laws or treaties
"of the United States, and deciding against that right.
"Very little importance has been attached to the inquiry,
"whether the federal question was formally raised."

In the case at bar an exemption from taxation was expressly granted to the plaintiff in error by its charter. It was claimed in the State court that this provision of the charter, when accepted and acted upon, constituted a contract, and as such, was protected by the constitution of the United States. It was sought by the subsequent law, and the taxes levied and attempted to be enforced under it by the State authorities, to attack and seriously impair this exemption. The validity of this law and of the tax and judgment based upon it, were denied by the plaintiff in error on the express ground that they violated the obligation of its contract. (Rec. pp. 7 and 47.) The question thus presented was decided adversely to the plaintiff in error by the State court.

We have thus presented the three elements which this court held in the recent case of *Murdock* v. *City of Memphis*, 20 Wall., 636, always confer jurisdiction.

1. It appears that one of the questions mentioned in the Judiciary Act, viz: that of "The validity of a statute
"or of an authority exercised under a statute, on the

"ground of its being repugnant to the Constitution," was directly raised and presented to the State Court.

2. This question was decided by the State Court, and this decision was necessary to the judgment rendered in the case.

3. The decision was against the right or claim asserted by the plaintiff in error, under the Constitution of the United States.

In the case cited, the court referring to these three elements, say "These things appearing, this court has jurisdiction, and must examine the judgment so far as to enable "it to decide whether this claim of right was correctly "adjudicated by the State court."

The jurisdiction of the court is shown:

1. By clear and necessary intendment, from the face of the record itself.

2. By the certificate of the Chief Justice of the Supreme Court of Illinois, which removes any possible uncertainty in the record and may be properly referred to for the purpose.

Home of the Friendless v. *Rousé*, 8 Wall., 430.
Parmelee v. *Lawrence*, 11 Wall., 36.

3. By the opinion of the Supreme Court of Illinois, certified as part of the record (Rec., p. 47), which shows that the sole question decided by the State court was a federal question, and which, under the recent decisions of this court, may properly be considered in determining the question of jurisdiction.

Murdock v. *City of Memphis*, 20 Wall., 633.
McManus v. *O'Sullivan*, 91 U. S., 578.
Bolling v. *Lersner*, Id. 594.

The precise question presented by this case has been repeatedly before this court, and in several decisions, it has

"and the public laws of the State where they are exer-
"cising their functions."

The principle to be gathered from all the authorities on this question is stated in the recent case of *Murray* v. *Charleston*, 96 U. S. 442. The court say: "Every-
"where in our decisions it has been held, that we
"may review the judgment of a State court when the de-
"termination or judgment of that court could not have
"been given without deciding upon a right or authority
"claimed to exist under the constitution, laws or treaties
"of the United States, and deciding against that right.
"Very little importance has been attached to the inquiry,
"whether the federal question was formally raised."

In the case at bar an exemption from taxation was expressly granted to the plaintiff in error by its charter. It was claimed in the State court that this provision of the charter, when accepted and acted upon, constituted a contract, and as such, was protected by the constitution of the United States. It was sought by the subsequent law, and the taxes levied and attempted to be enforced under it by the State authorities, to attack and seriously impair this exemption. The validity of this law and of the tax and judgment based upon it, were denied by the plaintiff in error on the express ground that they violated the obligation of its contract. (Rec. pp. 7 and 47.) The question thus presented was decided adversely to the plaintiff in error by the State court.

We have thus presented the three elements which this court held in the recent case of *Murdock* v. *City of Memphis*, 20 Wall., 636, always confer jurisdiction.

1. It appears that one of the questions mentioned in the Judiciary Act, viz: that of "The validity of a statute
"or of an authority exercised under a statute, on the

" ground of its being repugnant to the Constitution," was directly raised and presented to the State Court.

2. This question was decided by the State Court, and this decision was necessary to the judgment rendered in the case.

3. The decision was against the right or claim asserted by the plaintiff in error, under the Constitution of the United States.

In the case cited, the court referring to these three elements, say " These things appearing, this court has juris- " diction, and must examine the judgment so far as to enable " it to decide whether this claim of right was correctly " adjudicated by the State court."

The jurisdiction of the court is shown :

1. By clear and necessary intendment, from the face of the record itself.

2. By the certificate of the Chief Justice of the Supreme Court of Illinois, which removes any possible uncertainty in the record and may be properly referred to for the purpose.

Home of the Friendless v. *Rousé*, 8 Wall., 430.
Parmelee v. *Lawrence*, 11 Wall., 36.

3. By the opinion of the Supreme Court of Illinois, certified as part of the record (Rec., p. 47), which shows that the sole question decided by the State court was a federal question, and which, under the recent decisions of this court, may properly be considered in determining the question of jurisdiction.

Murdock v. *City of Memphis*, 20 Wall., 633.
McManus v. *O'Sullivan*, 91 U. S., 578.
Bolling v. *Lersner*, Id. 594.

The precise question presented by this case has been repeatedly before this court, and in several decisions, it has

not only asserted its jurisdiction, but enforced the obligation of similar contracts of exemption.

In all of this class of cases, the attempted violation of the contract was by the levy and enforcement of a tax on the exempted property, under a general revenue law.

In one of the earlier cases, that of *Jefferson County Bank* v. *Skelly*, 1 Black, 436, the charter of a bank exempted its property from taxation. It was attempted by the State authorities to levy and enforce a tax under a subsequent Act of the General Assembly "For the assess-" ment and taxation of all property in the State according " to its true value in money."

This tax was sustained by the State court, and on appeal to this court, the court took jurisdiction of the case, and held the tax and its attempted enforcement a violation of the obligation of the contract.

The same doctrine has been maintained in numerous cases, and is the settled law of this court.

State Bank of Ohio v. *Knoop*, 16 How., 378.
Home of the Friendless v. *Rouse*, 8 Wall., 430.
The Washington University v. *Rouse*, 8 Wall., 439.
Wilmington Railroad v. *Reid*, 13 Wall., 266.
Humphrey v. *Pegues*, 16 Wall., 244.
Pacific Railroad Company v. *Maguire*, 20 Wall., 36.

It will be seen from the opinion of the Supreme Court of Illinois, that that court conceded that the provision for exemption from taxation, in the charter of plaintiff in error, was broad enough to cover the property in question, and that this provision would constitute a contract, if the Legislature had *power* to make such a contract. It rested its decision on the sole ground that the constitution of the

State did not confer this power on the Legislature, and that therefore the contract was unauthorized and void.

It was insisted in the argument of the motion to dismiss, and is again argued in the brief for defendants in error, that this decision of the State Court, giving a construction to the State Constitution, is binding and conclusive on this court.

The decision already made by this court that it has jurisdiction, if adhered to, (as we have shown that it must be), is decisive, on principle, of this question.

The jurisdiction which the court exercises in reviewing the decision of the State Court is appellate and revisory.

The very decision which it is insisted is conclusive on this court, is the decision which it has assumed jurisdiction to review. It is a contradiction in terms to say that while it is the duty and the right of the court to review this decision, it must at the same time accept it as binding and conclusive upon it.

That the enforcement of this tax is a violation of the contract, if there was one, is too plain for argument and will not be denied.

The sole question therefore which the court is asked to pass upon in the exercise of this appellate jurisdiction is, was there a contract between the State, on the one hand, and the plaintiff in error on the other?

The decision of this question involves determining, not only whether the provision of the charter exempting from taxation is in its terms a contract, but also whether the Legislature of Illinois had the power to make such a contract. It involves equally the construction of the alleged contract, and of the power of the agent who made it.

This court has repeatedly held, that the decision of the State court holding that as a matter of construction a

particular charter did not constitute a contract, was not binding on this court, but that the construction to be given to such a charter was an original question for this court to determine.

Jefferson County Bank v. *Skelly*, 1 Black., 443, and cases cited.

In *Bridge Proprietors* v. *Hoboken*, 1 Wall., 144, the court held that the decision of the State court, giving a corstruction to a subsequent law, which it was claimed violated the obligation of the contract created by the charter, was not binding on this court, but that it had the right to give its own construction to the subsequent law, untrammeled by the decision of the State Court.

In *Butz* v. *City of Muscatine*, 8 Wall., 575, it was held that the construction given by the Supreme Court of Iowa to certain provisions of the code of that State, was not binding on this Court when a remedy given by the code had become so far a part of the contract as to be protected by the Federal Constitution.

The precise question under consideration was involved in one of the earliest cases, in which the validity of a similar contract of exemption from taxation was sustained.

In *State Bank of Ohio* v. *Knoop*, 16 How., 369, it was claimed that the Constitution of Ohio in force at the time the bank charter containing the clause of exemption was granted, as uniformly construed by the State court, withheld from the Legislature the power to make such an exemption, and that the construction thus given to that Constitution was conclusive. Mr. Justice Catron makes this one of the express grounds of his dissent (see p. 404) from the opinion of the Court, giving its own construction both to the charter and the State Constitution.

So in *Jefferson Branch Bank* v. *Skelly*, 1 Black, 436,

the precise point was made by counsel (p. 440); but this court held that it had the right to construe both the charter and the State Constitution.

These decisions are placed on two grounds—first, that the jurisdiction of the court to determine in such cases whether there was a contract or not, is an appellate jurisdiction, and necessarily involves the original decision of the questions, independent, or rather in review, of the decisions of the State Court; and, second, if these questions of construction were left to the State courts, it would always be in their power to defeat the acknowledged appellate jurisdiction of the Supreme Court, by resting their decisions upon some ground of construction.

In *State Bank* v. *Knoop*, 16 How., 369, at p. 391, the first of these grounds is thus stated: "We are called upon in "the case before us, not to carry into effect a law of the "State, but to test the validity of such a law by the Con- "stitution of the Union. We are exercising an appellate "jurisdiction. The decision of the Supreme Court of the "State is before us for revision."

The second ground is forcibly stated in *Delmas* v. *Insurance Company*, 14 Wall., 668. The court say: "This "court has always jealously asserted the right, when the "question before it was the impairing of the obligation of a "contract by State legislation, to ascertain for itself whether "there was a contract to be impaired. If it were not so, "the constitutional provision could always be evaded by "the State courts giving such construction to the con- "tract, or such decisions concerning its validity, as to ren- "der the power of this court of no avail in upholding it "against unconstitutional State legislation."

That the exercise of an appellate jurisdiction necessarily involves the right to decide all questions of construction, whether of State laws or State constitutions, has already

been shown. The necessity of asserting this right, to prevent the State courts from wresting from this court its acknowledged jurisdiction, seems equally clear, as otherwise it would be in the power of the State court to defeat the contract, by finding in the State constitution some implied prohibition on the exercise of the power to make it.

The question whether the legislature has power to bind the State, necessarily arises whenever a contract is asserted as against the State. In all that class of cases in which contracts of exemption from taxation have been sustained by this court, the question of the power of the legislature has been the primary question.

It would in fact be much easier to avoid the issue, by giving a construction to the general language of a State constitution, than by construing away the charter itself.

The danger of this doctrine cannot be better illustrated than by reference to the opinion of the State court in this case.

The distinction is a fundamental one, that while the federal constitution is a grant of powers, a State constitution is only a limitation of the legislative powers, and that the power of a State legislature is absolute, except so far as its exercise is controlled by limitations imposed by the constitution.

This court has repeatedly held that it is within the power of a State legislature, as such, to contract, by the provision of a corporate charter, for absolute exemption from taxation. Under these decisions, the only importance of a reference to a State constitution in a given case, is to determine whether it contains a prohibition upon the exercise of this recognized legislative power.

The Supreme Court of Illinois have not decided that the constitution of that State contains such a *prohibition*. They disregarded the fundamental distinction

to which we have referred, and looked to the State constitution to ascertain whether it *empowered* the legislature to do what this court has so repeatedly decided it has power to do, without any grant in the constitution itself. The decision is in one sense a construction of the State constitution, but it rests upon an obvious error as to a fundamental principle, which, if once adopted, would narrow the ground upon which all exemptions repose, and might lead the State courts to hold them void, not because they are prohibited, but because affirmative power to grant them is not expressly conferred by the State constitution upon a body that already possessed such power.

II.

The Constitution conferred discretion upon the legislature to exempt such property as they might deem necessary for school purposes, and their judgment, exercised in making the exemption under consideration, is conclusive and cannot be reviewed by the courts.

In discussing this proposition, it is important to bear in mind these admitted facts:

That the terms of the contract are broad enough to cover the property in question; that the legislature had power to exempt property for the purpose in question, as the Supreme Court of Illinois has held the exemption good in part; that, subsequent to the contract of exemption, large sums have been donated and expended for the purposes expressed therein, which, under the terms of the charter, cannot be used for private benefit; and that all such sums are, in fact, held and used for the support of this institution of learning which is open to all persons, irrespective of religious creed.

The contention is over Article 9, section 3, of the Constitution of 1848, to which the Supreme Court of Illinois applied a rule of strict construction. This doctrine, as applied to a State constitution is without precedent. The rule is fundamental, that while the Constitution of the United States, as a grant of powers, is to be strictly construed, a State Constitution, being a limitation upon the legislative power, is to be construed liberally.

Cooley's Const. Limit., 173.

In *Commonwealth* v. *Hartman*, 17 Pa. St., 119, the court say: "The rule of interpretation for the State constitution differs totally from that which is applicable to "the Constitution of the United States. The latter instrument must have a strict construction; the former a liberal "one. Congress can pass no laws but those which the constitution authorizes either expressly or by clear implication; while the Assembly has jurisdiction of all subjects "on which its legislation is not prohibited. The powers not "granted to the government of the Union, are withheld; "but the State retains every attribute of sovereignty "which is not taken away."

But there is another principle of universal application, which should be decisive of any question as to the principle of construction to be applied. The rule is well settled, that a proper respect for a co-ordinate branch of the government requires that a court must be convinced beyond a reasonable doubt before it will declare a law unconstitutional.

In *Fletcher* v. *Peck*, 6 Cranch., 128, the Court, (MARSHALL, C. J.,) say:

"The question, whether a law be void for its repugnancy to the constitution, is, at all times, a question of "much delicacy, which ought seldom, if ever, to be decided in the affirmative, in a doubtful case. The Court,

" when impelled by duty to render such a judgment, would " be unworthy of its station, could it be unmindful of the sol- " emn obligations which that station imposes. But it is " not on slight implication and vague conjecture that the " legislature is to be pronounced to have transcended its " powers, and its acts to be considered as void. The oppo- " sition between the constitution and the law should be " such that the Judge feels a clear and strong conviction of " their incompatibility with each other."

In *Ogden* v. *Saunders*, 12 Wheaton, 270, Mr. Justice WASHINGTON, in an opinion sustaining the constitutionality of a law, after expressing a doubt as to the correctness of his conclusion, said :

" But if I could rest my opinion in favour of the consti- " tutionality of the law on which the question arises, on no " other ground than this doubt so felt and acknowledged, " that alone would, in my estimation, be a satisfactory vin- " dication of it. It is but a decent respect due to the wis- " dom, the integrity, and the patriotism of the legislative " body, by which any law is passed, to presume in favour of " its validity, until its violation of the constitution is " proved beyond all reasonable doubt. This has always " been the language of this Court when that subject has " called for its decision."

The principle is the same, whether the question involves the construction of the law or of the constitution inself.

Cooley's Const. Lim., 184, and cases cited.
Twitchell v. *Blodgett*, 13 Mich., 162.

In the case last cited, the Court, (COOLEY, J.), say :

" The rule proceeds upon the idea that the legislative " construction is to be presumed correct until the contrary " satisfactorily appears, and that the courts are to yield to " that construction when embodied in the form of law, ex-

" cept where the law and the constitution are so plainly in " conflict that the two cannot stand together. When, " therefore, a repugnancy is claimed to exist between them, " the Courts must examine and construe the provisions of " each in the light of the other, and they must sustain the " law, if they have reasonable doubts of the conflict, even " though the doubts spring from a construction of the con- " stitution itself."

Under this correct rule, and in view of the admitted power of the State Legislature to exempt property from taxation, many times recognized by this court, to what extent does article 9 create a limitation upon the legislative discretion and judgment which was so long ago exercised, in the case at bar?

The terms used in the constitution of 1848 are the broadest. It was not provided that the legislature might exempt school structures and the ground whereon they stand, but that they might exempt property (which includes all real and personal estate), and that they might exempt property for school, religious and charitable purposes, which involved the necessity of determining what a school purpose was. For these three purposes, or for either of them, the legislature had the power to exempt such property as they should deem necessary; yet it is contended that they could not even conclude in their determination what a school purpose was, and it follows also that they could not determine what either a religious or a charitable purpose was.

When the Legislature exempted the property in question, they stamped upon it the impress of a school purpose, by authority of the people; indeed, without so doing, they could have made no exemption.

The determination of the purpose necessarily precedes a decision upon the amount to be exempted. To say that the legislature could not determine the first, is to deny what

is undeniable, to wit, that the convention gave them the power of exemption for the three purposes named. It was for them to say whether the purpose was a religious, or charitable, or school purpose, and the amount that should be devoted thereto. It was not reserved for the court of Illinois to usurp this discretion twenty years afterwards.

The constitution gave no definition to either of these three purposes, nor did it fix the amount of the property that might be exempted. Both of these questions were committed to the conscience and judgment of the legislature; with the necessities of the people before them, as well as the amount of property held by plaintiff in error, they declared that judgment and conscience in the exemption they made, and their action is final.

It is not alleged that the judgment of the legislature was wantonly or dishonestly exercised. It is not alleged that the property in dispute has been, or can be, used for any aim, object or purpose, other than educational, but it is claimed, that the legislature exempted too much, that less would have done, that the grounds and buildings thereon, actually occupied by the University, are for a school purpose and nothing more can be. It is admitted that the property is all devoted to the support and maintenance of the University. Will some one tell us for what purpose this is?

The Supreme Court of Illinois rest their opinion on a question of degree, not of principle. Says Chief Justice MARSHALL, 12 Wheat., 439: "Questions of power do not "depend upon the degree to which it may be exercised. "If it may be exercised at all, it must be exercised at the "will of those in whose hands it is placed."

By the same authority that the court of Illinois may exclude a portion of the property exempted by the legislature, for this purpose they may exclude it all, and defeat the will of the people, as expressed in the constitution.

It may be true, that the judgment of the Supreme Court of Illinois, as to what constitutes a school purpose, and how much property should be exempted therefor, is wiser and more enlightened than that of the legislature. The people did not solicit the former, but did invite the latter.

Whether property is for school purposes, must always be largely a matter of fact depending upon the circumstances in each particular case. How can the Supreme Court of Illinois determine, as a matter of principle, that property did not go for school purposes, which the record admits has been expended for the equipment of the school, the support of its teachers, and other things necessary and indispensable to a school?

If it be true that the framers of the constitution intended, by the words, "school purposes," a limitation excluding everything but the school building and grounds, then they meant nothing at all when they said, such property as the General Assembly may deem necessary may be exempt from taxation: for there was nothing to exercise judgment or discretion upon, as the words they used, in effect described a particular and well-defined amount of property, and prohibited all else. This construction annihilates the discretion conferred by the people upon the Legislature.

If the view of the Supreme Court is correct, the language of the Constitution should have been: The General Assembly may exempt property for school purposes *whenever* they may deem necessary; because the question of amount was already fixed by the use of definite words.

In *Martin* v. *Mott*, 12 Wheaton, 19, 31, an act of Congress of 1795 provided that, "whenever the United States "shall be invaded, or be in imminent danger of invasion, "&c., it shall be lawful for the President, &c., to call forth "such number of militia, &c., as he may *judge necessary* to "repel such invasion."

This court held that the authority to decide whether the exigencies contemplated in the act had arisen, and the number of militia to be called out, was exclusively vested in the President, and that his decision was conclusive. Mr. Justice STORY, in delivering the opinion of the court said: "Whenever a statute gives a discretionary power "to any person, to be exercised by him upon his own opinion "of certain facts, it is a sound rule of construction, that the "statute constitutes him the sole and exclusive judge of "the existence of those facts. And, in the present case, we "are all of opinion that such is the true construction "of the act of 1795. It is no answer that such a power "may be abused, for there is no power which is not sus-"ceptible of abuse."

In *Mosier* v. *Hilton*, 15 Barb., 657, the constitution of New York authorized the creation of corporations by special acts "in cases where, in the judgment of the legislature, "the objects of the corporation cannot be attained under "general laws." The court held that the discretion of the legislature could not be reviewed. The court say:

"Where is the authority to control the judgment of the "legislature? * * * The legislature, by creating the par-"ticular corporation, declare their judgment—the members "under their oaths to support the constitution; and, in "acting our opinion, courts have no power to review this dis-"cretion or judgment of the legislature."

So in *State* v. *County Court of Boone County*, 50 Mo., 317, the same question arose on the following clause in the constitution of Missouri: "The general assembly "shall pass no special law for any case for which provi-"sion can be made by a general law, but shall pass gen-"eral laws providing, so far as it may deem necessary, for "the cases enumerated in this section, and for all other "cases where a general law can be made applicable."

Subsequently, the legislature created a probate court by special acts.

The court say (p. 322):

"The probate courts might be supplied by general "laws, but the special laws are deemed much better, and "therefore are considered necessary. Who is to decide "when such necessity arises? The word 'necessary' "admits of all degrees of comparison. * * * "The legislature must, in the first instance, exercise their "discretion as to the necessity of a special instead of a "general act. How can the courts control that discretion? * * * "We are asked to pronounce upon the "necessity of a law, and whether it can be better supplied "by a general law than a special act. This is the exercise "of the discretion of the court to control the discretion of "the legislature."

In *H. and Q. Bridge and Turnpike Co.* v. *County of Norfolk*, 6 Allen, 353, the legislature passed an act to condemn the road, franchises and real estate of a turnpike company. It was claimed that the real estate was not necessary for the public use. The court say (p. 360): "It was the exclusive "province of the legislature to determine how much of the "property of the corporation was necessary for the public "use. The power includes the right to determine the "extent to which it shall be exercised."

In *Carpenter* v. *Montgomery*, 7 Blackf., 415, the constitution of Indiana provided that statutes should not be in force until published, "unless in cases of emergency." The court say: "Of the existence of the emergency the leg-"islature must necessarily be the judges; and when they "deem it to exist, they have the right to declare a statute "in force from and after its passage."

In *Franklin* v. *State Board of Examiners*, 23 Cal., 173, the question was as to the power of the legislature under

the following constitutional provision: "The legislature "shall not, in any manner, create any debt, &c., which "shall exceed the sum of $300,000, except in case of war, "to repel invasion or suppress insurrection, &c."

The court say: "The existence of the emergency call- "ing for the exercise of the power is purely a political "question, and the legislature, as the body in whom the "political power of the State is vested, are the sole "judges as to the existence of such emergency. * * * "The legislature is, therefore, the proper judge of the con- "struction to be given to the constitution upon this sub- "ject."

In 1848 the people said: "And such other property as "the general assembly may deem necessary for school, "religious and charitable purposes, may be exempted from "taxation."

The legislative judgment was appealed to. It was formed while they were deliberating upon the enactment of the law. It has been declared in the passage of the law containing the exemption, and it cannot now be reviewed by the courts.

III.

In any view the exemption under consideration was clearly for school purposes, and should be sustained as a proper exercise of the legislative power.

It was conceded by the Supreme Court of Illinois that within the range of school purposes the legislature had an absolute discretion; and that the only question which the legislative action has left open to the court is: What is a school purpose within the meaning of the constitution?

In considering this question we are to be guided by the

same general principles of construction to which we have already referred. In the light of these principles the question is narrowed to this: Is the exemption of the property sought to be taxed so clearly for other than school purposes that it is the duty of the court to declare the legislative action unconstitutional and void?

In construing this provision, the court should consider the circumstances surrounding its adoption, and such matters of State history as tend to throw light upon its intention.

The third article of the ordinance of 1787 declared that "Religion, morality, and knowledge being necessary to good "government and the happiness of mankind, schools and "the means of education shall forever be encouraged." This article with others was made a part of the fundamental law when the State government was adopted, and was binding upon the people of the State when they framed the constitution of 1848.

At the time the convention met to frame this constitution, Illinois was a comparatively new and undeveloped State, burdened with a large debt, and without the means to establish any public system of instruction in advanced learning.

Under these circumstances, this provision should be regarded as inspired by the desire and intention "to en-"courage the establishment of schools and the means of "education," and should be liberally construed to effect that purpose.

It is admitted that the income of the property in question is applied, and the property itself is held, solely for the educational purposes of this institution. The explicit language of the charter prevents its diversion to any other purpose under the penalty of forfeiture of the charter itself. If, under the power granted by the charter this

property is leased, the income must go to the support of the institution; if it is sold, the proceeds must be applied to the same purpose. No private individual has derived, or can derive, any personal benefit from the property thus exempted.

The language of the constitution is the language of the people, and is to be understood in its natural and ordinary signification. The words "school purposes" have no technical or special meaning; they are common and familiar words whose meaning cannot be made clearer than it is by definition. If property thus held and irrevocably devoted to the purposes of this institution, as defined by its charter, is not for school purposes, we fail to apprehend the force of language. If such purposes are not school purposes, what are they? to what class or kind of purposes within the range of human action do they belong? Nothing but the virtual interpolation of other qualifying words in the fundamental law of the State, will sustain a construction of these general words which imposes so narrow a limitation upon the legislative power as that contended for.

Such an institution as this university coming into life, without direct donations from the State itself, must have something more than the mere land on which the building stands. There must be a source of revenue which will support its professors, and keep the institution alive. The one is as much a necessity of its success, even of its existence, as the other; and the distinction, that the grounds and buildings thereon, and furniture therein, are clearly for "school purposes," while property used to erect more buildings, as necessity may require, and buy more furniture and pay teachers, is not for "school purposes," is one without reason, and is an unworthy foundation for an argument with which to sweep away a contract,

reposing upon the faith of a great State, and that has been confirmed by twenty years of practical acquiescence.

It is a construction which has heretofore received no support from the Supreme Court of Illinois.

In *Taylor* v. *Thompson*, 42 Ill., 9, that court held, that the levying of a township tax for bounties to soldiers in the late war was a legislative construction that such tax was for "corporate purposes" within the meaning of a clause in the same constitution, which limited taxation to corporate purposes, and sustained the tax. This construction would easily carry the case at bar, as the relation of bounties for soldiers in the national war to the strict purposes for which township organizations were formed, is much more remote than is that of a fund to employ teachers and support schools to the fair and obvious meaning of school purposes.

So also in *Burr* v. *City of Carbondale*, 76 Ill., 455, it was held that a tax levied to provide for the payment of bonds, issued by the City of Carbondale to induce the location within that city, of the Illinois Industrial University, was for a corporate purpose, within the meaning of the Constitution. In that case the court say (p. 468): "It "has always been the policy of this State to afford "means for the education of the youth of the State, and a "duty also."

If the power of exemption was confined to the "lands "occupied by buildings, or the other direct appliances of "education," then the exemption is void not only as to the lands in question, but as to all other property "not directly "used" by the institution itself. The constitution prescribes no particular kind of property which the legislalature may exempt, and the want of power would reach and destroy the exemption as to all property of every kind, not thus "directly used." All donations, all endowments, all property of every kind which could be a source

of revenue to support the institution, the legislature was alike powerless to exempt.

This construction would limit the power of exemption, not only as to the property of educational institutions, but also as to property held for religious and charitable purposes. It would prohibit the Legislature from exempting from taxation all property producing an income in aid or support of religious or charitable institutions or objects. It would lead to the irrational conclusion that the people, while authorizing the Legislature in express language to exempt the buildings, the grounds, the furniture, and the apparatus of colleges and seminaries, intended by the same provision to prohibit the exemption even of such funds or endowments, however limited, as piety or benevolence may have established to relieve the sick, the indigent, or the unfortunate, whether loaned and at interest, or invested in lands, stocks, or bonds. A construction resulting in such a conclusion would make the exemption depend upon the form or kind of the property, rather than the purpose to which it was to be applied, and would create a system of exemption inconsistent with itself, and with those reasons of public policy which are the foundation of every rational system of exemption.

The general revenue law of 1853 was the first and only general revenue law adopted under the constitution of 1848. This law exempted among other things "all "endowments made for the support of colleges and "academies," and "all moneys and credits appropriated "solely to sustaining and belonging exclusively to" charitable institutions. If the construction contended for is correct, each of these exemptions was clearly void. So all of the special acts to which we have referred as granting full exemption from taxation would be void, to the same extent as the charter of plaintiff in error. Even the majority of those special laws which we have classed as

only covering partial exemptions, contain some obnoxious exemption, such as "all the personal property of the cor- "poration," or "all moneys and securities, &c., held for edu- "cational purposes," or "the funds of the corporation," and would be void to the extent of the exemption of some kind or form of property, devoted to the purposes of the corporation, and not directly used by it.

If the people had intended to say to the General Assembly: "We authorize you in your discretion to exempt the "land upon which the buildings of any proposed educational "or charitable institution may be erected, and the furniture "and other direct appliances of the institution, but we "prohibit you from exempting any other property, how- "ever necessary to its success, or even existence," would they have employed language so plainly expressive of an intention to confer on the legislature a large discretion over the subject? Would they not have used language more clearly indicating the narrow rule of action which it was intended to lay down for the guidance of the General Assembly?

When they spoke through their legislature in the enactment of the successive revenue laws of 1845, 1853 and 1872, and of the many special charters to which we have referred, so far as they intended to limit the exemption to property directly occupied or used, their language was clear and not to be misunderstood. When in adopting the constitution of 1870, they desired to limit the power of exemption they used words plainly qualifying that power—yet if the construction of the provision of the constitution of 1848 contended for is correct, these limiting and qualifying words so carefully used were not needed to express the limitations which the State court has held, were so plainly expressed in the general words "school and charit- "able purposes."

This construction would convict the people of an inability to express in plain language, an important limitation on the legislative power, and would stamp substantially every law adopted by the legislature on the subject of exemption from taxation since the constitution went into force, with the impress of unconstitutionality.

IV.

The correctness of the view sustaining the power to make the exemption, is conclusively determined by the continued contemporaneous and practical construction given by the legislative and executive departments of the State government, and the long acquiescence of the people of the State in that construction.

At the time the decision was rendered by the State court, there had been a complete change in the condition and circumstances of the State. Illinois, which at the time of the adoption of the constitution of 1848, was sparsely settled, weighed down with debt, and without educational facilities, had become populous, and one of the wealthiest States of the Union. Encouraged by similar charters to that of the plaintiff in error, a large number of educational institutions had been established on a permanent basis throughout the State; while by its growth in wealth the State had itself acquired the means for maintaining a complete system of public education. In view of this radical change in condition and policy, the value of a contemporaneous and practical construction of this constitutional provision cannot be over-estimated.

The principle of contemporaneous and practical construction is expressed in some of the oldest maxims of the law. "*Contemporanea expositio est fortissima in lege.*" "*Op-*

"*tima legum interpres consuetudo.*" "*A communi observantia* "*non est recedendum.*"

This court has frequently recognized and applied the doctrine in giving construction to the federal constitution and the laws of Congress.

In *Stuart* v. *Laird*, 1 Cranch., 299, decided in 1803, the question was raised as to the authority of the members of this court, under the federal constitution, to sit as circuit judges. This authority had not before been questioned during the twelve years which had elapsed since the formation of the government. The court say: "To this objection, which is of recent date, it is "sufficient to observe, that practice and acquiescence "under it, for a period of several years, commencing with the organization of the judicial system, affords an irresistible answer, and has indeed fixed the construction. It is a contemporary interpretation of the "most forcible nature. This practical exposition is too "strong and obstinate to be shaken or controlled. Of "course, the question is at rest, and ought not now to be "disturbed."

In *Ogden* v. *Saunders*, 12 Wheat, 213, the validity of a State insolvent law was questioned on the ground that the power given to Congress by the federal constitution "to "establish uniform laws on the subject of bankruptcies "throughout the United States," excluded the right of the States to legislate on the subject. The court gave great weight to the fact that a practical construction had been given to these provisions, by the passage of such laws in the different States and by general acquiescence therein for a series of years.

Mr. Justice Johnson, referring to this contemporaneous exposition (p. 290), said:

"Every candid mind will admit that this is a very differ-

" ent thing from contending that the frequent repetition of " wrong will create a right. It proceeds upon the pre- " sumption, that the cotemporaries of the constitution " have claims to our deference on the question of right, be- " cause they had the best opportunities of informing them- " selves of the understanding of the framers of the consti- " tution, and of the sense put upon it by the people when " it was adopted by them."

In *Prigg* v. *Commonwealth*, 16 Pet., 620, the validity of the Act of 1793 on the subject of fugitive slaves was involved. The court, (Story J.) after referring to the fact, that, from the time of its adoption, the law had been constantly acted upon by the executives of the different States, and to other facts showing a contemporaneous construction and an acquiescence in its validity, say: "This very " acquiescence, under such circumstances, of the highest " State functionaries, is a most decisive proof of the univers- " ality of the opinion that the Act is founded in a just " construction of the Constitution, independent of the vast " influence which it ought to have as a contemporaneous " exposition of the provisions by those, who were its im- " mediate framers, or intimately connected with its adop- " tion. * * * * * *

" Under such circumstances, if the question were one of " doubtful construction, such long acquiescence in it, such " contemporaneous expositions of it, and such extensive and " uniform recognition of its validity, would in our judg- " ment, entitle the question to be considered at rest; unless " indeed, the interpretation of the Constitution is to be " delivered over to interminable doubt throughout the " whole progress of legislation and of national operations."

In *Dred Scott* v. *Sandford*, 19 How., 616, the principle is thus stated by Mr. Justice Curtis: " A practical construc- " tion, nearly contemporaneous with the adoption of the " Constitution, and continued by repeated instances through

" a long series of years, may always influence, and in " doubtful cases should determine, the judicial mind, on a " question of the interpretation of the Constitution."

The force of the principle is further illustrated by the decisions of the ablest State courts.

In *Rogers* v. *Goodwin*, 2 Mass., 477, the court, referring to the practical construction which had been given to a law of the State, say:

" Although if it were now *res integra*, it might be very " difficult to maintain such a construction; yet at this day " the *argumentum ab inconvenienti* applies with great " weight. We cannot shake a principle which in practice " has so long and so extensively prevailed. If the prac- " tice originated in error, yet the error is now so common " that it must have the force of law. The legal ground on " which this provision is now supported is, that long and " continued usage furnishes a contemporaneous construc- " tion, which must prevail over the mere technical import " of the words."

In *Boyden* v. *Town of Brookline*, 8 Vt., 284, a law regulating town affairs had been given a particular construction in practice, by town officers throughout the State. The court say: " This long established construction of the " statute should now have the force of a judicial deter- " mination. Such has always been the deference paid by " courts to such an exposition of statute or constitutional " law."

In *Rumsey* v. *The People*, 19 N. Y., 41, 58, it was claimed that the organization of Schuyler County was not constitutional. Successive sessions of the Legislature had acted upon the assumption of its constitutional existence, and it had been recognized for years by all the departments of the government, except the judicial. JOHNSON, C. J. and DENIO, J. in a concurring opinion, say:

"The several acts of 1857, based on the independent exist-
"ence of Schuyler County, and making its existence nec-
"essary to a government in conformity with the Constitu-
"tion, the recognition of that county by both branches of
"the legislature, who have a direct and independent right
"of judgment on their own mode of being constituted,
"and the action of all branches of the government, except
"the judicial, have put a practical construction on the
"whole subject, which has removed it from that region of
"doubt within which alone it is competent and suitable
"for a court to declare legislative acts void, as conflicting
"with the constitution."

In *Cronise* v. *Cronise*, 54 Pa. St., 255, 261, it was claimed that a special law of the legislature, annulling a marriage contract was unconstituional, on the ground that it was a judicial act. It appeared that this power had been frequently exercised by the legislature.

The court say: "The continued exercise of the power
"after the adoption of the constitution of 1790, cannot be
"accounted for, except on the ground that all men, learned
"and unlearned, believed it to be a legitimate exercise of
"the legislative power. This belief is further strengthened
"by the fact that no judicial decision has been made
"against it. *Communis error facit jus*, would be sufficient to
"support it, but it stands upon the higher ground of con-
"temporaneous and continued construction by the peo-
"ple, of their own instrument. It has a still higher basis.
"The people, finding defects in the Constitution of 1790,
"voted in 1836 to reform it. The unlimited power of
"the Legislature on the subject of divorce, was proposed
"for reform, and discussed in the convention. The result
"was the amendment to be found in the 14th section of
"the 1st Article of the amended Constitution. * * * This
"section was placed by the convention in the first article
"as a restriction upon the grant of legislative power. It

" is, therefore, a clear recognition of the power, outside of " the restriction."

In *People* v. *Maynard*, 15 Mich., 463-470, it was contended that an act for the organization of a new township, and abolishing two others, was unconstitutional, on the ground that its purpose was not indicated in the title. The court say: " If this question had been raised immediately, we are not " prepared to say that it would have been altogether free " from difficulty. But, inasmuch as the arrangement " there indicated had been acted upon for ten years before " the recent legislation, and had been recognized as valid " by all parties interested, it cannot now be disturbed. " * * * * * The exercise of jurisdiction being notorious " and open in all such cases, the State as well as county " and town taxes, being all levied under it, there is no " principle which could justify any court at this late day in " going back to inquire into the regularity of the law of " 1857."

In *Scanlan* v. *Childs*, 33 Wis., 663, the question was raised whether manufacturers of liquors were required to take out a license as liquor dealers under the excise law of the State. This law had been in force for more than twenty years, and the uniform practice under it had been not to require such a license from manufacturers. The court say :

" The general understanding of a law, and constant " practice under it for so long a period by all the officers of " the government, whose duty it has been to execute it, un- " questioned by any suit brought, or public or private " action instituted to test or settle the construction in the " courts, ought to be very strong, if not conclusive evi- " dence of the true meaning and application, and that they " are such as it has thus received."

In *Johnson* v. *Joliet and Chicago Railroad Company*,

23 Ill., 202, the question was raised, under another clause of the constitution of 1848, whether corporations could be created by special law without a special declaration, by way of preamble, that the object could not be attained by general law. The court say (p. 207):

"It is too late now to make this objection, since, by the "action of the General Assembly under this clause, special "acts have been so long the order of the day, and the "ruling passion with every legislature which has convened "under the constitution, until their acts of this description "fill a huge and misshapen volume, and important and "valuable rights are claimed under them. The clause "has been wholly disregarded, and it would now produce "far-spread ruin, to declare such acts unconstitutional and "void. It is now safer, and more just to all parties, to "declare, that it must be understood that in the opinion of "the General Assembly, at the time of passing the special "act, its objects could not be attained under the general "law, and this without any recital by way of preamble, "as in the act to incorporate the Central Railroad Com-"pany. That preamble was placed there by the writer of "this opinion, and a strict compliance with this clause of "the constitution would have rendered it necessary in "every subsequent act. But the legislature, in their "wisdom have thought differently, and have acted differ-"ently, until now our special legislation and its mischiefs "are beyond recovery or remedy."

The application of these principles to the case at bar should be decisive of the question under consideration.

The next legislature which met after the adoption of this constitution, that of 1849, gave a practical and contemporaneous construction to this clause of the constitution. The charter of the Sterling Academy passed by this legislature, authorized it, among other things, to ac-

quire, sell, use, manage and dispose of real property; and Section 12 provided, "that the land or lots, building or "buildings," etc., should be forever exempt from taxation. (Suppl., p. 3). While this exemption is not as broad as that granted plaintiff in error, it was a practical and contemporaneos assertion by the legislature of the power to exempt property "not itself used directly in aid of the "purposes" of the corporation.

But the action of the next legislature, that of 1851, was unmistakable. It incorporated the Wesleyan Seminary of Peoria, the Whitehall Male and Female Academy and Orphan Institute, and the Hennepin Union Seminary. The charters of these three corporations all contained clauses of full exemption from taxation. (Suppl., p. 3).

The provision in the charter of the Whitehall Male and Female Academy, was as follows: "All property, of "whatsoever kind and description, belonging and per- "taining to said academy, shall be and forever remain free "and exempt from all taxes and assessments, for State "and county purposes."

That of the Wesleyan Seminary provided that "all the "real and personal estate belonging to, or to belong to, "said corporation, shall be exempt from taxation for any "and all purposes whatsoever."

The General Assembly met every two years, and at each succeeding session, until the adoption of the constitution of 1870, beginning with that of 1849, and ending with that of 1869, charters were passed incorporating educational or charitable institutions, containing similar clauses of full exemption from taxation. There were twelve of these sessions of the legislature, and the number of charters passed by them, containing this full exemption from taxation, was one hundred and ten. Of these,

eighty-two were for the incorporation of educational, and twenty-eight of charitable, etc., institutions.

Other legislation during this same period shows that the distinction now asserted by the Supreme Court of Illinois, between full exemption from taxation and exemption only of the property actually occupied by the institution itself, and the consequent power of the legislature to make such full exemption, were present in the legislative mind.

The same legislature, that of 1853, which incorporated the Galena Theological Seminary with a provision in its charter "that all property of whatsoever kind and descrip-" tion, belonging or appertaining to said seminary, shall be " and forever remain free and exempt from all taxation for " any and all purposes whatever" (Suppl., p. 4), also incorporated the Oregon Union Institute and the Batavia Institute. The charter of the Oregon Union Institute exempted "the tract of land on which the buildings of the " Institute may be erected, together with all the furni-" ture, books and apparatus belonging to said Institute." (Suppl., p. 27). That of the Batavia Institute provided that it might hold three hundred and twenty acres of land, "forty acres of which, upon which the necessary " buildings of the Institution may be erected, together with " the necessary personal property belonging to said cor-" poration, shall be exempt from taxation." (Suppl., p. 27).

At each succeeding session of the legislature, until the adoption of the constitution of 1870, charters containing clauses of partial exemption from taxation similar to those quoted above, were passed *pari passu* with those providing for full exemption. There were forty-two of these charters which confined the exemption to "the tract of " land on which the buildings may be erected," or "upon " which the necessary buildings of the institution may be

"erected," or "the block or lot of land on which the "building may be erected, not exceeding," &c., or "actu- "ally used," or "used and ocupied exclusively and solely" by the corporation.

Under the constitution of 1848 the members of the legislature were elected every two years. These twelve legislatures were therefore practically different bodies of men, coming directly from the people.

The constitution required every bill to be read on three different days, in each house, and to receive on its final passage the concurrence of a majority of all the members elected in each house, the vote to be by ayes and noes, and entered on the journal. No private or local law could embrace more than one subject, and that was required to be expressed in the title. (Art. III, Secs. 21–23). Every law which passed the Senate and house was required to be presented to the governor before it became a law. If the governor approved it he signed it, but if not, he returned it, with his objections, to the house in which it originated. These objections were entered at large upon the journal, and a bill could only be passed over them after a re-consideration by both houses. (Art. IV, Sec. 21). Every one of these charters was therefore considered and passed upon by both houses of the General Assembly and by the chief executive of the State. Each step in their consideration by the legislature down to their final passage, their consideration by the governor, and his approval, involved a practical construction of the constitutional provision in question.

Not only did the people of the State give a contemporaneous and practical construction to this provision through their legislatures and their executive, but they directly recognized and acquiesced in the general system thus inaugurated and carried on. From session to session of the

legislature these corporations were authorized and encouraged by such provisions of exemption. The charters thus adopted were not only known to the people through the medium of their representatives and of the press, but they were printed from year to year under the requirements of the constitution, and distributed throughout the State, for their instruction and inspection. These charters, with their proffers of exemption from taxation, were thus offered and accepted with the knowledge and consent of the people of the State. On the faith of these exemptions, educational and charitable institutions were created in every county in the State, and donations of land and money were made, and the personal efforts of the benevolent were called into action for their encouragement and support. As a result, over one hundred educational and charitable institutions were thus established throughout the State in the short period of twenty years, with no other encouragement or aid from the State itself than the privileges and advantages which their charters afforded.

Not only this, but during all of this time the validity of these exemptions was not attacked in the courts, or questioned by the officers of the State, entrusted with the assessment and collection of the revenue. In every township, county or municipality, where taxes were assessed and levied, these exemptions were recognized and respected. Nor was the Supreme Court of the State called upon to pass upon the question of their validity until after a new constitution was adopted, and the construction of the old ceased to be of practical value, except so far as it affected rights acquired and vested on the faith of the promised exemption, and of this continuous contemporaneous construction.

As a final recognition and assertion of the existence of this power, the convention that framed the constitution of 1870, and the people who ratified it made an unmis-

takable declaration that the time had come to limit the power of the legislature in the particular under discussion by a change in the organic law.

The adoption of the constitution of 1870 marked a radical change in the policy of the State. It had outgrown the necessity which existed in its early history for encouraging private enterprise, and aid by special legislation. Hence, one of the most radical changes in the new constitution was a provision taking from the legislature all power to grant special charters, or pass local laws.

At the same time, and in pursuance of the same change in policy, the general power of the legislature to exempt from taxation such property as they might deem necessary for school and charitable purposes, was taken away, and the power of exemption was limited by a fixed rule to property, "*used exclusively*" for such purposes.

The conclusion, which seems so obvious from a comparison of the two provisions, is confirmed by the proceedings and debate in the convention at the time the new provision was adopted.

The provision in the constitution of 1870, as originally presented to the convention, was substantially the same as that of 1848, except that the words "the Legislature may deem," before the word "necessary," were struck out, and the words "may be" inserted.

Mr. Medill moved to amend the provision by striking out the word "necessary," and inserting in lieu thereof the words "used exclusively."

In support of this amendment Mr. Medill said:

"The constitution should exempt only the property that "is 'used exclusively' for these purposes. * * * "That abuses have grown up, and are spreading and ex- "tending all the time, in regard to their exemptions, is a

" patent, notorious fact known to every man in the State,
" and unless this convention shall arrest that tendency, it
" will continue to spread until the evil will become, in
" the course of time, an overshadowing one. * * *

" Of course we should exempt public property, for that
" is the property of the State. Nothing could be gained
" by taxing it, more than taking money out of one pocket
" and putting it in the other. I should exempt grave-
" yards, for a dead man is not able to pay taxes; and I am
" willing to exempt the property of churches used exclu-
" sively for religious purposes; the property of colleges
" and schools used exclusively for that purpose."

Mr. Bromwell said: " I have no doubt that there are
" millions of property in Illinois, exempt from taxation to-
" day, under some special charter, perhaps, but which,
" nevertheless, could never have been exempt, if the
" present constitution had contained such words as are
" now proposed."

* * * * * * *

" When 'exclusively used,' is put in here, it seems to me,
" everything is corrected."

(Debates Const. Convention 1870, p. 1269.)

No other member of the convention spoke on the subject, and in view of these considerations, the amendment was agreed to without a dissent, and was subsequently adopted by a direct vote of the people of the State.

The question before this court is, can the State now carry this change of policy back so as to affect rights which had already vested under the old condition of things?

On the faith of the privileges offered by the State, these institutions have been founded and established upon a permanent basis. This exemption from taxation constituted, no doubt, a controlling inducement. Money and

property have been donated on the strength of it. These donations cannot now be restored to the donors.

Whatever may be the decision of this question, the State will still continue to reap the benefit of this private enterprise and charity which has been aroused by the promises it has made.

Those who best knew and understood the policy and purpose of the State constitution, have repeatedly and under the most solemn sanctions, given to it a practical and explicit construction. Their construction has been uniform and everywhere acquiesced in by the people who adopted that instrument. It is not for those who belong to another generation, and who live under new conditions, to overthrow this recognized and accepted construction.

When we remember that the people in the constitutional convention of 1848, declared the policy of Illinois in relation to educational institutions; that this policy was acted upon by the first legislature under that constitution, and that this action has been followed up by 12 different legislalatures, coming each time fresh from the people; that this construction of the constitution was never questioned until after the adoption of the new constitution of 1870; that for 20 years it received the approval of the legislative and executive departments of the State Government, and must also have had the uniform acquiescence of the towns, counties and cities wherever taxes were collected; that it was never questioned in the courts; that the new constitution of 1870, declared this to have been the policy of the State by the very changes it made, and that during all this time the State of Illinois has enjoyed the privileges secured by the contract—when we recall all this, the attempt to annul this contract receives its conclusive answer in the words of this court, pronounced upon a practical construction and acquiescence of only eleven years.

"It is a contemporary interpretation of the most forcible "nature. This practical exposition is too strong and ob- "stinate to be shaken or controlled. Of course the ques- "tion is at rest, and ought not now to be disturbed." (*Stuart* v. *Laird*, 1 Cranch., 299.)

V.

The grave errors in the opinion of the Supreme Court of Illinois destroy the weight of the decision of that court as an authority.

The first error of that court was an erroneous reading of the very provision of the Constitution under consideration. It will be seen, by reference to the opinion, (80 Ill., 334,) that the court, in quoting the provision, substituted for the words "school, religious and "charitable purposes," the words "schools, religious and "charitable purposes." The materiality of this change in phraseology is obvious. It substituted the single word "schools" for the more general expression, "school pur- "poses," and thus changed the import of the whole clause. It is enough to say that that court did not construe the clause under which the Legislature acted, but a wholly different clause.

To show that the peculiar phraseology of the clause as quoted was deemed important in the mind of the court, attention is called to the following quotation from the opinion: "By the language of the constitution we have "quoted, while a discretion is conferred on the General "Assembly, whether to exempt or not, and if it shall de- "termine to exempt, the amount of the exemption, it is "clearly restricted, in the exercise of this discretion, to "property for schools, and for religious and charitable "purposes." So that, when the court comes to mark a

limit to the property that may be exempted, it is clearly defined in the opinion as property for "schools," and not property for "school purposes."

The next step taken by the court in arriving at its conclusion involved an error equally serious. The court assume the necessity of resorting to construction, and adopt a rule as its guide. This rule it derives from a class of cases cited, all relating to statutes containing provisions of exemption from taxation, and is the rule which the courts have so uniformly applied in giving construction to such provisions of exemption. The State court quotes the following language of this court as stating the true rule to be applied in the case before it: "The contract (of exemption) must be shown "to exist. There is no presumption in its favor. Every "reasonable doubt should be resolved against it. "Where it exists it is to be rigidly scrutinized, and never "permitted to extend, either in scope or duration, beyond "what the terms of the concession clearly require. It is "in derogation of public right, and narrows a trust created "for the good of all."

This strict doctrine which has been applied to the construction of an act of the legislature, "which is in dero-"gation of public right, and narrows a trust created for "the good of all," has never been applied, and cannot be applied to the construction of a constitutional limitation on the legislative power. Much less can this be done when the effect is to render an act of the legislature unconstitutional.

The true rule, as we have already seen, is the very reverse of that adopted by the court. Aside from the general rule that a State constitution is to be construed liberally, the principle is incontrovertible and inflexible, that a law will be presumed to be constitutional. As Mr. Justice Washington said: "We must pre-

" sume in favor of its validity, until its violation of the " constitution is proved beyond all reasonable doubt."

The rule applied was the rule of strict construction. The true rule was the rule of liberal construction. The court held that it must be shown, beyond a reasonable doubt, that the legislature *had* the power, when in fact it was necessary to establish, beyond a reasonable doubt, that the legislature *had not* that power.

It will also be seen, by a reference to the opinion, that the court ignored the equally fundamental doctrine, that a State constitution is a limitation upon the legislative power. It looked to the constitution to ascertain whether it "empowered" the exemption, when the true inquiry was whether it prohibited the exercise of the otherwise plenary power of the legislature over the subject.

The court having laid down the rule of construction as quoted above, say: " Bearing in mind this rule of " construction, we must suppose it" (the intention to authorize the exemption) " would have been said in unmistak- " able language."

We cannot estimate the controlling effect of an error so fundamental in giving construction to words so general as those under consideration.

To sustain this fabric of erroneous construction, which it had built up on a mistaken foundation, the court, as the last step, in its argument, cites at length several cases, which are neither analogous in facts, nor pertinent in principle.

The court say: " As illustrative, and in support of this " construction, the following cases, which though arising " on the construction of statutes, are equally pertinent to " the construction of like clauses in constitutions, may be " referred to."

We deny that any case arising on the construction of a statue giving exemption from taxation, can be "pertinent"

to the construction of a clause in a constitution limiting a legislative power. We deny that a clause in a statute conferring exemption on an individual, and a clause in a constitution, defining or limiting the legislative power to make exemption, can be "like clauses."

But aside from the inherent and marked difference between the cases cited and the case at bar in this particular, it will be found that in all of the cases cited "in support "of this construction," there were limiting or qualifying words not found in the clause under consideration, which were the basis of the conclusion of the court.

In *First Methodist Episcopal Church* v. *City of Chicago*, 26 Ill., 482, the statute exempted "every build- "ing *erected for the use of* any literary, religious, benevo- "lent, charitable or scientific institution." It was held that the words "erected for the use of" limited the exemption to property directly used for religious purposes.

In *Pierce* v. *Inhabitants of Cambridge*, 2 Cush., 611, the exemption was limited to such property "as shall be *actually occupied*" by the institution. The decision rested upon these qualifying words. The Court say, "*Occupa-* "*tion* of a lesse was not such an *occupation* as was in- "tended by the statute."

In *Washburn College* v. *Commissioners of Shawnee Co.*, 8 Kan., 348, the provision was substantially the same as that of the present Constitution of the State of Illinois, which it will be remembered is changed in phraseology from the former provision by inserting the qualifying words, "used exclusively" for school purposes, etc. The decision of the court turned upon this peculiar phraseology. They say: "The fact that they (the Convention) ignored 'owner- "ship,' and made 'use' a test of the exemption, shows "clearly that they recognized the essential distinction be- "tween the two, and established the latter, rather than "the former, as a basis of exemption."

In *Orr* v. *Baker*, 4 Ind., 86, and *Methodist Church* v. *Ellis*, 38 Ind., 3, the qualifying words were "every build-" ing *erected for religious worship*," etc.

In the case last cited, the Court say: "The Legisla-" ture has expressly provided that the building should be " erected for religious worship."

In *Proprietors* v. *City of Lowell*, 1 Met., 540, the exemption was expressly limited to "all houses of religious " worship, and the pews and furniture within the same."

In *State* v. *Ross*, 4 Zabr., 497, the statute exempted "all " colleges, academies, or seminaries of learning," and the sole question presented and decided was, whether an academy or seminary kept by an individual on his own account, was within the meaning of this exemption.

It will thus be seen that to make the cases cited analogous, some qualifying words, such as "created for the use " of," or "actually occupied by," or "used exclusively," must be interpolated in the provision under consideration.

It appears from this review that the court in arriving at their conclusion misread and misapprehended the clause of the Constitution under discussion; that they disregarded the fundamental distinction between the federal Constitution as a grant of powers, and the State Constitution as a limitation upon the plenary power of the legislature; that they erroneously applied the rule of strict construction, relating to contracts of exemption, to a constitutional provision; that they ignored the familiar doctrine that a law is to be presumed constitutional until its unconstitutionality is shown beyond a reasonable doubt, and that they rested their conclusion at last on a class of cases, containing plain words of limitation, and without analogy to the case before the court.

WIRT DEXTER,

Att'y for Plaintiff in Error.

IN THE

Supreme Court of the United States,

October Term, A. D. 1878.

THE NORTHWESTERN UNIVERSITY,
Plaintiff in Error,

vs.

THE PEOPLE *ex rel.* HENRY B. MILLER, County Treasurer of Cook County, Illinois,
Defendants in Error.

Error to the Supreme Court of the State of Illinois.

Supplement to Brief for Plaintiff in Error.

WIRT DEXTER,
Att'y for Plaintiff in Error.

CHICAGO:
PRESS OF BEACH, BARNARD & CO., LEGAL PRINTERS, NO. 104 RANDOLPH STREET.
1879.

IN THE

Supreme Court of the United States,

October Term, A. D. 1878.

THE NORTHWESTERN UNIVERSITY, Plaintiff in Error,
vs.
THE PEOPLE *ex rel.* HENRY B. MILLER, County Treasurer of Cook County, Illinois, Defendants in Error.

Error to the Supreme Court of the State of Illinois.

Supplement to Brief for Plaintiff in Error.

As supplemental to the brief filed in this case, counsel for plaintiff in error submits to the court certain laws of Illinois, as indicating the construction given by the legislature, and the executive of the State, for more than twenty years, to the clause in the constitution under discussion. It appears from an examination of these laws, that between 1848 and 1870, the Assembly granted exemptions from taxation to one hundred and fifty-two institutions. Of these, one hundred and twelve were for educational

purposes, and forty for charitable, religious and scientific purposes.

Eighty-two of the educational institutions were granted full exemption of all their property, and the same grant was also made to twenty-eight of the charitable, etc., institutions.

In point of time these charters were granted as follows: One in 1849, three in 1851, two in 1852, six in 1853, fourteen in 1855, twenty-six in 1857, nine in 1859, twelve in 1861, seven in 1863, eighteen in 1865, twenty-seven in 1867, and twenty-seven in 1869, making a total of 152, of which 110 contain a full exemption clause.

Most of these charters are made public laws by express provision of the acts themselves.

The following tables will show in what manner, and to what extent, successive legislatures have acted in granting exemptions under the Constitution of 1848.

	1849	1851	1852	1853	1855	1857	1859	1861	1863	1865	1867	1869	Total.
Full Exemption.	1	3	1	3	12	17	7	9	6	14	17	20	110
Partial.			1	3	2	9	2	3	1	4	10	7	42
	1	3	2	6	14	26	9	12	7	18	27	27	152

	Exem'n	1849	1851	1852	1853	1855	1857	1859	1861	1863	1865	1867	1869	Total.	
Educational.	Full	1	3	1	3	11	16	6	6	2	9	10	14	82	112
	Partial			1	3	2	9	2	1	1	2	5	4	30	
Charitable, etc.	Full					1	1	1	3	4	5	7	6	28	40
	Partial								2		2	5	3	12	
		1	3	2	6	14	26	9	12	7	18	27	27	152	

ACTS MADE PUBLIC.

	1849	1851	1852	1853	1855	1857	1859	1861	1863	1865	1867	1869	Total.
Full Exemption.			1	2	8	10	3	4	3	10	10	12	63
Partial Exemption.			1	2	1	7	1	1	1	1	6	4	25
			2	4	9	17	4	5	4	11	16	16	88

Only one charter granting exemption—and that partial—was passed prior to 1848. This was the charter of the Illinois Conference Female Academy. (Private Laws 1846, p. 52.)

Below will be found the exemption clauses of all the charters which contain exemptions, full or partial, and also the provisions of the general laws of 1845, 1853 and 1872, in relation to exemption from taxation.

Full Exemptions.

In "An act to incorporate the Sterling Academy, in the "town of Sterling, Whiteside County, Illinois." (Pr. Laws 1849, p. 5.)

§ 12. "The land, lots, building or buildings, "library, philosophical or chemical, or other apparatus be- "longing to said incorporation is, and the same is forever, "exempt from taxation, for State, county or corporation "purposes."

In "An act to incorporate the trustees of the Wesleyan "Seminary of Peoria." (Private Laws 1851, p. 277.)

§ 8. "And all the real and personal estate belonging "to, or to belong to said corporation shall be exempt from "taxation for any and all purposes whatever."

In "An act to incorporate the Whitehall Male and "Female Academy and Orphan Institute." (Pr. Laws 1851, p. 279.)

§ 8. "That all property, of whatsoever kind and de- "scription, belonging, or pertaining to said academy, shall "be and forever remain free, and exempt from all "taxes and assessment for State and county purposes."

In "An act to incorporate the Hennepin Union Semi- "nary, in the town of Hennepin, Putnam County, Illinois." (Pr. Laws 1851, p. 312).)

purposes, and forty for charitable, religious and scientific purposes.

Eighty-two of the educational institutions were granted full exemption of all their property, and the same grant was also made to twenty-eight of the charitable, etc., institutions.

In point of time these charters were granted as follows: One in 1849, three in 1851, two in 1852, six in 1853, fourteen in 1855, twenty-six in 1857, nine in 1859, twelve in 1861, seven in 1863, eighteen in 1865, twenty-seven in 1867, and twenty-seven in 1869, making a total of 152, of which 110 contain a full exemption clause.

Most of these charters are made public laws by express provision of the acts themselves.

The following tables will show in what manner, and to what extent, successive legislatures have acted in granting exemptions under the Constitution of 1848.

	1849	1851	1852	1853	1855	1857	1859	1861	1863	1865	1867	1869	Total.
Full Exemption.	1	3	1	3	12	17	7	9	6	14	17	20	110
Partial.			1	3	2	9	2	3	1	4	10	7	42
	1	3	2	6	14	26	9	12	7	18	27	27	152

	Exem'n	1849	1851	1852	1853	1855	1857	1857	1861	1863	1865	1867	1869	Total.	
Educational.	Full	1	3	1	3	11	16	6	6	2	9	10	14	82	112
	Partial			1	3	2	9	2	1	1	2	5	4	30	
Charitable, etc.	Full					1	1	1	3	4	5	7	6	28	40
	Partial								2		2	5	3	12	
		1	3	2	6	14	26	9	12	7	18	27	27	152	

ACTS MADE PUBLIC.

	1849	1851	1852	1853	1855	1857	1859	1861	1863	1865	1867	1869	Total.
Full Exemption.			1	2	8	10	3	4	3	10	10	12	63
Partial Exemption.			1	2	1	7	1	1	1	1	6	4	25
			2	4	9	17	4	5	4	11	16	16	88

Only one charter granting exemption—and that partial—was passed prior to 1848. This was the charter of the Illinois Conference Female Academy. (Private Laws 1846, p. 52.)

Below will be found the exemption clauses of all the charters which contain exemptions, full or partial, and also the provisions of the general laws of 1845, 1853 and 1872, in relation to exemption from taxation.

Full Exemptions.

In "An act to incorporate the Sterling Academy, in the "town of Sterling, Whiteside County, Illinois." (Pr. Laws 1849, p. 5.)

§ 12. "The land, lots, building or buildings, "library, philosophical or chemical, or other apparatus be- "longing to said incorporation is, and the same is forever, "exempt from taxation, for State, county or corporation "purposes."

In "An act to incorporate the trustees of the Wesleyan "Seminary of Peoria." (Private Laws 1851, p. 277.)

§ 8. "And all the real and personal estate belonging "to, or to belong to said corporation shall be exempt from "taxation for any and all purposes whatever."

In "An act to incorporate the Whitehall Male and "Female Academy and Orphan Institute." (Pr. Laws 1851, p. 279.)

§ 8. "That all property, of whatsoever kind and de- "scription, belonging, or pertaining to said academy, shall "be and forever remain free, and exempt from all "taxes and assessment for State and county purposes."

In "An act to incorporate the Hennepin Union Semi- "nary, in the town of Hennepin, Putnam County, Illinois." (Pr. Laws 1851, p. 312).)

§ 11. "The land, lots, building or buildings, library, "philosophical or chemical, or other apparatus, belonging "to said corporation, is, and the same shall be forever ex- "empt from taxation for State, county or corporation pur- "poses."

In "An act to incorporate the Mount Carroll Semi- "nary," made a public act. (Pub. Laws 1852, p. 20.)

§ 11. "The lands, lots, building or buildings, library, "philosophical, or chemical or other apparatus, belonging "to said corporation, is and the same shall be forever "exempt from taxation, for State, county, or corporation "purposes."

In "An act to incorporate the Galena Theological Semi- "nary," made a public act. (Pr. Laws 1853, p. 274.)

§ 6. "That all property, of whatsoever kind and de- "scription, belonging or appertaining to said seminary, "shall be and forever remain free and exempt from all "taxation, for any and all purposes whatever."

In "An act to incorporate the Northern Illinois Agri- "cultural College." (Pr. Laws 1853, p. 407.)

§ 15. "All the real and personal estate belonging to, "or to belong to, said corporation, shall be exempted from "taxation for any and all purposes whatever."

In "An act to incorporate the Peoria Female Academy," made a public act. (Pr. Laws 1853, p. 506.)

§ 6. "The land, lots, buildings, library, furniture, philo- "sophical or other apparatus, is hereby, and the same shall "be forever exempt from taxation for State, county, town "and city corporation purposes."

In "An act to incorporate the Peoria Academy," made a public act. (Pr. Laws 1855, p. 368.)

§ 6. "The land, lots, buildings, library, furniture,

" philosophical or other apparatus, is hereby, and the same " shall be forever exempt from taxation for State, county, " town and city corporation purposes."

In " An act to incorporate the Duquoin Female Semi- " nary, in Perry county," made a public act. (Pr. Laws 1855, p. 370.)

§ 8. " All property, of whatever kind and description, " belonging or appertaining to said seminary, shall be and " forever remain free and exempt from all taxation for any " and all purposes whatever."

In " An act to incorporate the Union Academy, of " Sparta, in Randolph County." (Pr. Laws 1855, p. 373.)

§ 7. " And the land and lots, buildings, library, furniture, " philosophical or other apparatus of said corporation, is " hereby, and the same shall be forever exempt from tax- " ation for State, county, town or city corporation pur- " poses. Provided, that the amount of property so held, " exempt from taxation, at any time shall not exceed in " value one hundred thousand dollars."

In " An act to incorporate the Chicago Theological " Seminary," made a public act. (Pr. Laws 1855, p. 375.)

§ 5. " That the property, of whatever kind or descrip- " tion, belonging or appertaining to said seminary, shall " be forever free and exempt from all taxation, for all pur- " poses whatsoever."

In " An act to incorporate Fulton Seminary, at Lewis- " ton, in Fulton county," made a public act. (Pr. Laws 1855, p. 380.)

§ 11. " The property of said corporation shall be and " remain free from taxation and assessment."

In " An act to incorporate the Clark Seminary, at " Aurora," made a public act. (Pr. Laws 1855, p. 384.)

§ 10. "The property of said corporation, both real "and personal, shall forever be and remain free from tax- "ation."

In "An act to amend an act entitled 'An act to incor- "porate the Northwestern University,' approved January "28th, 1851," made a public act. (Pr. Laws 1855, p. 483.)

§ 4. "That all property, of whatever kind or descrip- "tion, belonging to or owned by said corporation, shall be "forever free from taxation, for any and all purposes."

In "An act to incorporate the Marengo Collegiate In- "stitute of the Presbytery of Chicago," made a public act. (Pr. Laws 1855, p. 503.)

§ 8. "All property, of whatsoever kind and description, "belonging or to belong to said institution, or appertain- "ing thereto, shall be and forever remain free and exempt "from all taxation, for any and all purposes whatsoever."

In "An act to incorporate the Garrett Biblical Insti- "tute," made a public act. (Pr. Laws 1855, p. 511.)

§ 6. "That all property, of whatever kind or descrip- "tion, belonging to or owned by said corporation, or held "in trust by any person or persons for the use thereof, "shall forever be free from all taxation, for any and all "purposes."

In "An act to incorporate Berean College." (Pr. Laws 1855, p. 513.)

§ 7. "All property, real and personal, held by said in- "stitution, for the purposes herein contemplated, shall be "exempt from taxation."

In "An act to incorporate Eureka College." (Pr. Laws 1855, p. 540.)

§ 13. "The tract of land now owned by the trustees "of Walnut Grove Academy, when transferred to the

" corporation hereby established, shall, together with the " library, apparatus, and other property of said corpora- " tion, be exempt from all State and county taxes."

In " An act to incorporate the trustees of the Nashville " Academy, at Nashville, Washington County, Illinois." (Pr. Laws 1855, p. 658.)

§ 6. " And all the real and personal estate belonging " to, or to belong to the said corporation, shall be exempt " from taxation for any and all purposes."

In " An act to incorporate the Northwestern Female " College of Evanston, Cook County," made a public act. (Pr. Laws 1857, p. 6.)

§ 4. " And provided further: that all property, of " whatsoever kind and description, belonging to said in- " stitution or corporation, shall, for the purposes aforesaid, " be and forever remain free from all assessments and tax- " ation whatsoever."

In " An act to incorporate Hyde Park Seminary." (Pr. Laws 1857, p. 72.)

§ 6. " The property of said corporation, both real and " personal, shall forever be and remain free from taxa- " tion."

In " An act to incorporate the Prairie City Academy." (Pr. Laws 1857, p. 117.)

§ 12. " And the lands, lots, buildings, library, chemical, " philosophical or other apparatus, belonging to said cor- " poration, is and the same shall be forever exempt from " taxation, for State, county or corporate purposes."

In " An act to incorporate Dixon Collegiate Institute, at " Dixon, Lee Co., Illinois." (Pr. Laws 1857, p. 250.)

§ 12. " The block or blocks, lot or lots of land, with " all real estate, and the improvements of every character

" thereon, together with all personal property of the cor-
" poration, or belonging to the said institution, shall be
" exempt from all taxation for any purposes."

In " An act to incorporate the Carbondale College, in
" Jackson County," made a public act. (Pr. Laws 1857, p. 265.)

§ 5. " That the property, of whatsoever kind or de-
" scription it may be, whether real, personal or mixed,
" already acquired or hereafter to be obtained, belonging
" or appertaining to said college, shall be forever free and
" exempt from all taxation, for all and every purpose
" whatever, whether county, school, road or State taxes."

In " An act to incorporate the Lind University," made a public act. (Pr. Laws 1857, p. 514.)

§ 9. " All property, of whatever kind and description,
" belonging or appertaining to the corporate body created
" by this act, shall be and forever remain free and exempt
" from all taxation for any and all purposes whatever."

In " An act to incorporate Blackburn Theological Sem-
" inary." (Pr. Laws 1857, p. 584.)

§ 6. " All property, real, personal or mixed, of said
" incorporation, shall be forever free from taxation, for all
" and every purpose whatever."

In " An act to incorporate the Rockford Wesleyan
" Seminary and Male and Female Institute," made a public act. (Pr. Laws 1857, p. 792.)

§ 11. " The property of said corporation, both real and
" personal, shall forever be and remain free from taxa-
" tion."

In " An act to amend an act entitled ' An act to incor-
" ' porate the Illinois Liberal Institute,' approved Febru-
" ary 15, 1851, and to change the name of said institute

"to Lombard University," made a public act. (Pr. Laws 1857, p. 796.)

§ 3. "And any funds or other property of said Uni-
"versity shall be exempt from all taxes."

In "An act to incorporate an institution of learning." (Pr. Laws, 1857, p. 807.) The same privileges were granted to the Swedenborg University as were granted to the Garret Biblical Institute, and to the Lind University.

In "An act to incorporate Monmouth College, in War-
"ren County," made a public act. (Pr. Laws 1857, p. 883.)

§ 12. "The tract of land on which the buildings of the
"said college may now or hereafter be erected, together
"with all the furniture, books, apparatus, and all property,
"real and personal, moneys, effects, notes, bonds, bills and
"evidences of indebtedness belonging to said college, shall
"be and is hereby exempt from all taxes."

In "An act to incorporate the Evanston Seminary," made a public act. (Pr. Laws 1857, p. 994.)

§ 9. "The property of said corporation, both real and
"personal, shall forever be and remain free from taxa-
"tion."

In "An act to incorporate the Aledo Collegiate Insti-
"tute," made a public act. (Pr. Laws 1857, p. 1010.)

§ 4. "All property belonging to said institute, now, or
"at any future time, of every kind and description, is and
"shall forever remain free and exempt from all taxation for
"any purpose whatsoever: Provided, said property shall
"not exceed in amount the sum of $25,000, exclusive of the
"buildings and apparatus belonging to said institute."

In "An act to incorporate the Chicago Relief and Aid
"Society." (Pr. Laws 1857, p. 1123.)

§ 8. "That all property, of whatsoever kind and de-
"scription, belonging to said corporation, shall be and re-
"main free and exempt from all taxes and assessments for
"State, county, or city purposes."

In "An act to incorporate the Rock River Seminary
"and Collegiate Institute," made a public act. (Pr. Laws 1857, p. 1136.)

§ 13. "The property of said corporation, both real
"and personal, shall forever be and remain free from tax-
"ation."

In "An act to incorporate Bushnell College." (Pr. Laws 1857, p. 1175.)

§ 8. "All property, real and personal, held by said in-
"stitution for all the purposes herein contemplated, shall
"be exempt from taxation."

In "An act to incorporate the Waukegan Academy," made a public act. (Pr. Laws 1857, p. 1381.)

§ 6. "The lands, lots, buildings, library, furniture, phil-
"osophical and other apparatus of said corporation, and
"the shares of stock in said corporation, are hereby and the
"same shall be forever exempt from taxation for State,
"county, town and corporation purposes: Provided, that
"the amount of property so held exempt from taxation
"shall not at any time exceed in value one hundred thou-
"sand dollars."

In "An act to incorporate the Chicago Home for the
"Friendless." (Pr. Laws 1859, p. 10.)

§ 5. "And all real and personal property held by or
"for the use of said corporation, or occupied by it, shall
"be exempt from taxation."

In "An act to incorporate the Blandinville Seminary, in
"the County of McDonough." (Pr. Laws 1859, p. 359).

§ 10. "The lots, buildings, library, apparatus, and all "other property belonging to said corporation is, and the "same shall be, forever exempt from taxation for State, "county, or corporate purposes."

In "An act to incorporate the Charleston Academy." (Pr. Laws 1859, p. 360.)

§ 11. "The property, both real and personal, belonging "to this incorporation, shall be forever exempt from tax- "ation: Provided, that this section shall not extend to "more than twenty-five thousand dollars in value of per- "sonal property, nor to more than forty acres of real es- "tate."

In "An act to incorporate the Galena Classical Insti- "tute." (Pr. Laws 1859, p. 366.)

§ 7. "That all, of whatever kind or description of "property, belonging to or owned by said corporation, or "held in trust by any person or persons, for the use there- "of, shall forever be free from all taxation, for any and all "purposes: Provided, the amount of real estate does not "exceed eighty acres."

In "An act to incorporate the Mattoon Academy," made a public act. (Pr. Laws 1859, p. 367.)

§ 8. "The property of said corporation shall forever "be and remain free from taxation."

In "An act to incorporate 'The Olney Male and Fe- "male College,'" made a public act. (Pr. Laws 1859, p. 371.)

§ 14. "The said institution and all its property, real, "personal or mixed, shall be exempt from taxation: Pro- "vided, there shall be exempt from taxation any number "of acres of land not exceeding ten acres."

In "An act to incorporate the Washington Academy," made a public act. (Pr. Laws 1859, p. 377.)

§ 8. "The lands, lots, buildings, library, furniture, "philosophical, mathematical, or other apparatus, is here- "by, and the same shall be, forever exempt from taxation "for State, county, town, and city purposes."

In "An act to incorporate the Bloomingdale Academy." (Pr. Laws 1861, p. 11.)

§ 11. "All property, of whatever kind and description, "belonging or appertaining to said academy, shall be and "forever remain free and exempt from all taxation for any "and all purposes whatever, the amount of property so "exempt not to exceed twenty-five thousand dollars."

In "An act to incorporate the El Paso Academy." (Pr. Laws 1861, p. 14.)

§ 11. "Exemption. The property, both real and per- "sonal, belonging to the incorporation, shall be forever "exempt from taxation: Provided, that this section shall "not extend to more than twenty-five thousand dollars in "value of personal property, nor more than forty acres of "real estate."

In "An act to incorporate the Lockport Seminary at "Lockport, Will County," made a public act. (Pr. Laws 1861, p. 17.)

§ 9. "The property of said corporation, both real and "personal, shall forever be, and remain, free from taxa- "tion."

In "An act to incorporate the Metropolis College," made a public act. (Pr. Laws 1861, p. 20.)

§ 10. "All the property, real and personal, of this cor- "poration shall be, and forever remain, free from taxation."

In "An act to incorporate the Woodstock University," made a public act. (Pr. Laws 1861, p. 26.)

§ 9. "All property, of whatsoever kind or description,

" belonging to or owned by said corporation, or held in " trust by any person or persons, for the use thereof, " whether said property be held in fee or for a limited " duration, shall be free from taxation for any and all pur- " poses ; the amount of property so exempt not to exceed " twenty-five thousand dollars."

In " An act to incorporate the Young Men's Christian " Association of Chicago." (Pr. Laws 1861, p. 47.)

§ 2. "This association shall have power to hold real estate " for its own use, which shall be exempt from taxation for " general purposes, either by the State, or by municipal " or county organization, and, in this regard, be held and " treated the same as church property."

In " An act to incorporate an Insane Asylum in Cook " County, Illinois." (Pr. Laws 1861, p. 48.)

§ 11. " All the property of said institution shall be for- " ever free from all taxation while the same, or the income " or proceeds thereof, shall be used or devoted to the use " and purposes of such institution."

In " An act to incorporate the Ministerial Education " Society of the Methodist Episcopal Church." (Pr. Laws 1861, p. 50.)

§ 4. " The property at any time held or owned by said " corporation, for the educational purposes aforesaid, shall " be exempted from taxation: Provided, that said property " shall not exceed fifty thousand dollars in value, to be " exempt as aforesaid."

In " An act to incorporate the Illinois Natural History " Society," made a public act. (Pr. Laws 1861, p. 301.)

§ 8. " The property of said corporation, both real and " personal, shall forever be and remain free from taxation."

In "An act to incorporate the Mattoon Female Seminary," made a public act. (Pr. Laws 1863, p. 12.)

§ 13. "All property, of whatsoever kind and description, "belonging to, or owned by said corporation, or held in "trust by any person or persons for the use thereof, whether said property be held in fee or for a limited time, "shall be free from taxation for any or all purposes; the "amount of property so exempt not to exceed one hundred and fifty thousand dollars."

In "An act to incorporate the Mattoon College," made a public act. (Pr. Laws 1863, p. 15.)

§ 13. "All property, of whatever kind or description, "belonging to or owned by said corporation, or held in "trust by any person or persons, for the use thereof, "whether said property be held in fee, or for a limited "duration, shall be free from taxation for any or all purposes, to the amount of one hundred thousand dollars."

In "An act to incorporate the Roman Catholic Asylum of the Diocese of the Catholic Bishop of Chicago," made a public act. (Pr. Laws 1863, p. 25.)

§ 6. "And all real estate or personal property held by "or for the use of said corporation, or occupied or used "by it, shall be free from taxation: Provided, the value "of the real and personal estate so exempt shall not exceed fifty thousand dollars."

In "A bill for an act to exempt property of the American Bible Society and its auxiliaries and branches from "taxation." (Pr. Laws 1863, p. 26.)

§ 1. "That the following property, which is now "owned or may hereafter be owned in this State, by the "American Bible Society, organized in the city of New "York, in the year 1816, or by any of its auxiliaries or "branches, shall be exempt from all taxes whatever, to wit:

" real and personal estate, not exceeding in value fifty " thousand dollars, in this State; also, all Bibles and Testa- " ments, in the depositories of said society, and any articles " of personal property necessary for the prosecution of " their objects."

In " An act to incorporate the Springfield Home for the " Friendless." (Pr. Laws 1863, p. 27.)

§ 5. " and all real or personal property held by, or for " the use of said corporation, or occupied by it shall be ex- " empt from taxation, not exceeding in value twenty-five " thousand dollars."

In " An act to incorporate the Chicago Ministry at " Large." (Pr. Laws 1863, p. 35.)

§ 5. " The said corporation may receive, take and " hold, either by gift, purchase, devise, bequest, or other- " wise, any real or personal estate, for the use and for the " advancement of the objects and purposes of said corpo- " ration, whether the same be purchased, given, devised, " bequeathed or conveyed directly to said corporation, or " to any of its officers, for the use of said corporation; and " all real or personal estate, so held or owned by, or for " the use of, said corporation, shall be exempt from all " taxation."

In " An act to incorporate the Barrington Academy," made a public act. (Pr. Laws 1865, Vol. 1, p. 2.)

§ 10. " The property, both real and personal, belonging " to this incorporation, shall be forever exempt from " taxation."

In " An act to incorporate the Grundy Academy," made a public act. (Pr. Laws 1865, Vol. 1, p. 3.)

§ 9. " The property of said corporation, both real and " personal, shall forever be and remain free from tax- " ation."

In "An act to incorporate DeSoto College, Jackson "County," made a public act. (Pr. Laws 1865, Vol. 1, p. 6.)

§ 10. "All the buildings, grounds and property of said "institution and school, whether real or personal, and all "the stock and means of said corporation, shall be forever "exempt from State, county, school, road or town taxes."

In "An act to incorporate Westfield College," made a public act. (Pr. Laws 1865, Vol. 1, p. 17.)

§ 12. "The property and effects of said corporation, "not exceeding in amount, one hundred thousand dollars, "shall be free and exempt from State, county, township "and municipal taxation."

In "An act to incorporate the Augustana College and "Seminary," made a public act. (Pr. Laws 1865, Vol. 1, p. 21.)

§ 8. "The property of said corporation, both real and "personal, not exceeding in value fifty thousand dollars, "shall forever be, and remain free from taxation."

In "An act to incorporate the Washington Seminary," made a public act. (Pr. Laws 1865, Vol. 1, p. 32.)

§ 11. "All property, of whatever kind and description, "belonging to said seminary or owned by said corporation, "or held in trust, by any person or persons, for the use "thereof, whether said property be held in fee or for a "limited time, shall be free from taxation for any "or all purposes; the amount of property so exempt not to "exceed twenty-five thousand dollars."

In "An act to incorporate the Quincy Independent Ger- "man School Association." (Pr. Laws 1865, Vol. 1, p. 35.)

§ 5. "The land, lots, buildings, library and furniture of "said corporation is hereby, and the same shall be forever

"exempt from taxation for State, county, town, city and "corporation purposes: Provided, the property does not "exceed in value in value the sum of twenty thousand dol- "lars."

In "An act to incorporate the Peoria German School "Association." (Pr. Laws 1865, Vol. 1, p. 36.)

§ 7. "The property, both real and personal of said "association shall be exempt from taxation: Pro- "vided, the value of said property shall not be over one "hundred thousand dollars."

In "An act to incorporate the Baptist Theological "Union, located at Chicago," made a public act. (Pr. Laws 1865, Vol. 1, p. 38.)

§ 7. "The property, real and personal, belonging to "said corporation, at any and at all times hereafter, shall "be free and exempt from all taxation and assessments, "special or general, for any and all purposes whatsoever."

In "An act to incorporate Lincoln University," made a public act. (Pr. Laws 1865, Vol. 1, p. 44.)

§ 9. "All property [of] whatever kind and description, "belonging or appertaining to the corporate body, created "by this act, shall be, and forever remain, free and exempt "from taxation for any and all purposes whatever."

In "An act to incorporate the Chicago Nursery and "Half Orphan Asylum." (Pr. Laws 1865, Vol. 1, p. 84).

§ 8. "The lands and other property of said corpora- "tion shall be exempt from taxation or assessment for "State, county or city purposes; Provided, that the amount "of property so held exempt from taxation shall not, at "any time, exceed in value one hundred thousand dollars."

In "An act to incorporate St. Luke's Hospital of Chi-

" cago," made a public act. (Pr. Laws 1865, Vol. 1, p 91.)

§ 9. " All real estate or personal property held by and " for the use of said corporation, or occupied or used by " it, shall be free from taxation or assessment; provided, " the value of the real and personal estate so exempt shall " not exceed fifty thousand dollars."

In " An act to incorporate the Chicago Erring Women's " Refuge for Reform," made a public act. (Pr. Laws 1865, Vol. 1, p. 98.)

§ 9. " and any and all real estate or personal property, " held by or for the use of, or occupied by said corporation, " shall be exempt from taxation, for any purpose."

In " An act to incorporate the German Union Evangelical " Synod of the North West." (Pr. Laws 1865, Vol. 1, p. 237.)

§ 3. " and all such property, real or personal, held by " or for the use of said corporation, shall be exempt from " taxation."

In " An act to amend the charter of the Illinois Agri- " cultural College." (Pr. Laws 1867, Vol. 1, p. 1.)

§ 2. " That section eight of said act to be amended, by " adding thereto: ' That the lands, lots, stock, buildings, " library, philosophical and chemical apparatus, cabinet " and all other property belonging to, or which may " hereafter belong to said institution, shall be forever " exempt from taxation, for State, county, corporation, or " other purposes.' "

In " An act to incorporate the Illinois Soldiers' College " at Fulton, in Whiteside County," made a public act. (Pr. Laws 1867, Vol. 1, p. 6.)

§ 17. " That the property of this corporation shall be, " and remain free from taxation and assessment."

In "An act to incorporate the Mt. Carroll Seminary," made a public act: (Pr. Laws 1867, Vol. 1, p. 13.)

§ 3. "The said tract of land, together with such additions "as may be made thereto, and all buildings and improve- "ments thereon, or which may hereafter be placed thereon, "together with all the books, furniture, apparatus, musical "instruments and other personal property, of every name "and description, now, or which may hereafter be con- "nected with said institution, or used, or kept upon said "premises, either for the use of the seminary, the cultiva- "tion or improvement of the grounds of said corporators, "or the pleasure of the proprietors, principals or teachers, "shall be held and deemed as the property of said corpo- "ration, and shall forever be exempt from taxation for "State, county, town, municipal or other purposes."

In "An act to incorporate Metropolis Seminary, in "Metropolis, Illinois." (Pr. Laws 1867, Vol. 1, p. 15.)

§ 8. "All property of whatsoever kind and description, "belonging, or appertaining to said seminary, shall "be, and forever remain exempt from taxation, for any "and all purposes whatsoever."

In "An act to incorporate the Evanston Academy," made a public act. (Pr. Laws 1867, Vol. 1, p. 16.)

§ 4. "The property of said institution not to exceed "fifty thousand dollars, shall be forever free from taxa- "tion."

In "An act to incorporate Southern Illinois College, in "Carbondale, Jackson County," made a public act. (Pr. Laws 1867, Vol. 1, p. 32.)

§ 7. "That the property of whatsoever kind or de- "scription it may be, whether real, personal or mixed, al- "ready acquired or hereafter obtained, belonging or ap- "pertaining to said college, shall be forever free and

"exempt from all taxation for all and every purpose "whatever, whether State, county, city or village, corpo- "ration, school or road taxes."

In "An act to incorporate Edgar Collegiate Institute, "located in Edgar County, Illinois." (Pr. Laws 1867, Vol. 1, p. 36.)

§ 4. "And the property of said corporation shall be "exempt from taxation to the value of twenty-five thou- "sand dollars ($25,000.)"

In "An act to incorporate the DeWitt County Semi- "nary." (Pr. Laws 1867, Vol. 1, p. 37.)

§ 10. "All property, of whatever kind and description, "belonging or appertaining to said seminary, shall be, and "forever remain, free and exempt from all taxation for "any and all purposes whatever, the amount of property "so exempt not to exceed fifty thousand dollars."

In "An act to incorporate the United Hebrew Relief "Association of Chicago." (Pr. Laws 1867, Vol. 1, p. 130.)

§ 8. "The property of said corporation, to the extent "of twenty thousand dollars, shall be exempt from all "taxes and assessments for State, county, and city pur- "poses."

In "An act to incorporate the Washingtonian Home "of Chicago," made a public act. (Pr. Laws 1867, Vol. 1, p. 141.)

§ 8. "All the property at any time owned by said cor- "poration shall be exempt from taxation.

In "An act to incorporate the Seaman's Benevolent "Union of Chicago." (Pr. Laws 1867, Vol. 1, p. 149.)

§ 4. "The said corporation may receive, take and "hold any gifts, devises, bequests or donations, which

" may be made, and may be used for the promoting of the " objects, and usefulness of said corporation; and the prop- " erty so held or acquired shall not be liable to taxation."

In " An act to incorporate the Sisters of the Good Shep- " herd of the City of Chicago," made a public act. (Pr. Laws 1867, Vol. 1, p. 152.)

§ 4. " *Be it further enacted*, that the property of this " corporation, to the amount of fifty thousand dollars, " ($50,000), is hereby released from taxation for any pur- " pose whatsoever."

In " An act to incorporate the Young Ladies Athe- " næum, of Jacksonville," made a public act. (Pr. Laws 1867, Vol. 2, p. 257.)

§ 7. " All property, of whatever kind or description, " belonging to said Athenæum, or owned by said corpora- " tion, or held in trust by any person or persons for the " use thereof, whether said property be held in fee or for " a limited time, shall be exempt from all State, county, " township, municipal or other taxation."

In " An act to incorporate the Chicago Astronomical " Society," made a public act. (Pr. Laws 1867, Vol. 2, p. 258.)

§ 3. " This society, being an institution formed and " maintained solely for the advantage of the public, it and " its property and estate, of every name and description, " are hereby declared to be exempt from all taxation under " the authority of this State."

In " An act to amend an act entitled ' An act to incorpo- " rate the Chicago Historical Society,' approved Febru- " ary 7, 1857." (Pr. Laws 1867, Vol. 2, p. 261.)

§ 2. " And the real estate and property of said society " shall be exempt from taxation."

In " An act to incorporate the Ladies' Baptist Educa-" tion Society," made a public act. (Pr. Laws 1867, Vol. 2, p. 275.)

§ 1. " And real and personal property belonging to the " said corporation shall be exempt from taxation or " assessment for any purpose whatever."

In " An act to incorporate the Rock Island German " and English School Society," made a public act. (Pr. Laws 1867, Vol. 3, p. 77.)

§ 7. " The property, both real and personal, of said " society, shall be exempt from taxation; provided, the " value of said property shall not exceed twenty-five " thousand dollars."

In " An act to incorporate the Bennett College of " Eclectic Medicine and Surgery," made a public act. (Pr. Laws 1869, Vol. 1, p. 1.)

§ 8. " All property, real, personal and mixed, [belong-" ing] to the said corporation shall be exempt from all " taxes for any and all purposes."

In " An act to incorporate the Evanston College for " Ladies," made a public act. (Pr. Laws 1869, Vol. 1, p. 6.)

§ 5. " The property of said institution, of whatever " kind, shall, while owned or held by said institution, be " exempt from taxation for any purpose."

In " An act to incorporate the Jennings Seminary, at " Aurora, Illinois," made a public act. (Pr. Laws 1869, Vol. 1, p. 14.)

§ 3. " The property of this corporation shall be and " remain free from taxation and assessment."

In " An act to incorporate the Jerseyville Academy," made a public act. (Pr. Laws 1869, Vol. 1, p. 15.)

§ 11. " The property of said corporation, both real and " personal, shall forever be and remain free from taxa- " tion."

In " An act to incorporate the Mount Vernon College," made a public act. (Pr. Laws 1869, Vol. 1, p. 23.)

§ 8. " All property, real and personal, held by said in- " stitution for the purposes herein contemplated, shall be " exempt from taxation."

In " An act to incorporate the Rock Falls College," made a public act. (Pr. Laws 1869, Vol. 1, p. 28.)

§ 5. After providing for selecting site for the college buildings; for the erection of suitable buildings; for the purchase of a library, cabinet, etc.; for the endowment of professorships or scholarships, continues: * " and " the same, and all the property of said corporation, shall " be free from taxation, for any purpose whatever."

In " An act to incorporate the Teachers' Institute and " Classical Seminary, of East Paw-Paw, DeKalb County, " Illinois," made a public act. (Pr. Laws 1869, Vol. 1, p. 32.)

§ 7. " All property, of whatsoever kind and description, " belonging or appertaining to said seminary, shall be ex- " empt from taxation for State, county and municipal pur- " poses."

In " An act to incorporate the Winetka Academy," made a public act. (Pr. Laws 1869, Vol. 1, p. 34.)

§ 9. " The property of said corporation shall be ex- " empt from taxation, except for special assessments."

In " An act to amend an act entitled ' An act to incor- " porate the Chicago Academy of Sciences,' and to exempt " its property from taxation," made a public act. (Pr. Laws 1869, Vol. 1, p. 38.)

§ 1. " Be it enacted," etc., " that the Chicago Acad-
" emy of Sciences, being an institution and school formed
" and maintained solely for the advantage and education of
" the public, it and its property and estate, of every name
" and description, are hereby declared to be exempt from
" all taxation."

In " An act to reduce the law incorporating the Illinois
" Liberal Institute, and the several acts amendatory thereof,
" into one act, and to amend the same, and for other pur-
" poses," made a public act. (Pr. Laws 1869, Vol. 1, p. 41.)

§ 3. " And all the said funds and estate, as well as all
" other property, real, personal and mixed, which may be
" received by them, or of which the said corporation shall
" be seized and possessed, shall be free from taxation."

In " An act to amend an act entitled an act to amend
" an act entitled ' An act to incorporate the Lind Univer-
" sity,' approved February 13th, 1857, and approved
" February 16th, 1865." (Pr. Laws 1869, Vol. 1, p. 43.)

§ 1. " That all property, of whatsoever kind and de-
" scription, belonging or appertaining to the Lake Forest
" University, shall be and forever remain free and exempt
" from all taxation for State, county or municipal purposes,
" excepting as is provided in section (13) thirteen of the
" said act, approved February 16th, 1865, of which this act
" is amendatory." The section above referred to excepts street and sidewalk assessments. (Pr. Laws 1865, Vol. 1, p. 49.)

In " An act to incorporate the Illinois Seamen's Friends'
" Society," made a public act. (Pr. Laws 1869, Vol. 1, p. 244.)

§ 2. Provides for acquiring property by purchase, gift, devise, etc., and for holding, transferring, mortgaging and

conveying real estate and personal property, to be held and used for the purpose of furnishing aid and relief to sailors, and continues: " and said property, real and per- " sonal, shall be exempt from taxation."

In " An act to incorporate the Uhlich Evangelical " Lutheran Orphan Asylum," made a public act. (Pr. Laws 1869, Vol. 1, p. 251.)

§ 7. " All property, while owned by said corporation, " for the support, use, and maintenance of said asylum, " shall be exempt from taxation."

In " An act to amend an act entitled ' An act [to] incor- " ' porate the Chicago Home for the Friendless.' " (Pr. Laws 1869, Vol. 1, p. 255.)

§ 1. Provides for the acquiring, holding, and disposing of property, and continues: " Provided, that the same " shall be for benevolent, charitable, educational, or " religious purposes; and all such real and personal prop- " erty shall be at all times exempt from taxation."

In " An act to incorporate the Bloomington Independ- " ent German School Association." (Pr. Laws 1869, Vol. 2, p. 407.)

§ 6. " The property of said corporation shall be forever " free and exempt from all State, county, and corporation " taxation."

In " An act to incorporate the Cairo German School " Society." (Pr. Laws 1869, Vol. 2, p. 408.)

§ 6. " The property of said corporation shall be forever " free and exempt from all State, county, and corporation " taxation."

In " An act to incorporate the Public School Library " Association of the City of Chicago." (Pr. Laws 1869, Vol. 2, p. 661.)

§ 9. "The property of the association, held solely for "the purposes contemplated in this act, shall be exempt "from taxation."

In "An act to incorporate the Mathesian Library "Society of Southern Illinois College." (Pr. Laws 1869, Vol. 2, p. 690.)

§ 4. "The property, of whatsoever kind or descrip- "tion, already acquired or hereafter obtained, belonging "or appertaining to said society, shall be forever free and "exempt from taxation for all and every purpose what- "ever, whether State, county, city, or village, corporation, "school, or road taxes."

In "An act to incorporate the Young Men's Christian "Association of Pontiac." (Pr. Laws 1869, Vol. 4, p. 508.)

§ 6. "Said corporation shall have full power to estab- "lish and maintain free libraries and reading rooms, and "the same, together with all the real and personal estate, "while it shall be held or owned by or for said association "for its own use, shall be exempt from taxation."

In "An act to incorporate the Young Men's Christian "Association of Springfield." (Pr. Laws 1869, Vol. 4, p. 510.)

§ 1. "This association shall have power to purchase, "hold, enjoy, and convey real estate, for the purpose of "establishing and maintaining free libraries and reading "rooms, and for benevolent and religious purposes, and "the same, while it shall be held or owned by or for said "association, for its own use, together with all personal "property held or owned by or for said association, shall "be, in like manner, exempt from taxation by State, muni- "cipal, or county organization—to be held or treated the "same as church property."

Partial Exemptions.

In " An act to incorporate the Illinois Conference Fe-
" male Academy, " made a public act. (Pr. Laws 1846, p. 52).

§ 5. " The lot of land on which the buildings may be
" erected, not exceeding five acres, with the buildings and
" appurtenances thereof, shall be exempt from taxation for
" State, county, or corporation purposes."

In " An act to incorporate the Virginia Seminary of the
" Cumberland Presbyterian Church," made a public act. (Pub. Laws 1852, p. 26.)

§ 6. " The lot of land on which the buildings may be
" erected, not exceeding in quantity twenty acres, with the
" improvements thereon, and all the personal property of
" the corporation, shall be exempt from taxation for any
" purpose whatever."

In " An act to incorporate the Oregon Union Institute," made a public act. (Pr. Laws 1853, p. 497.)

§ 16. " The tract of land on which the buildings of the
" institute may be erected, together with all the furniture,
" books and apparatus belonging to said institute, shall be
" exempt from all taxes."

In " An act to incorporate the Batavia Institute." (Pr. Laws 1853, p. 509.)

§ 2. " That the said institution shall be located in the
" township of Batavia, Kane County, upon such grounds
" as the trustees shall select, not to exceed three hundred
" and twenty acres, forty acres of which, upon which the
" necessary buildings of the institution may be erected,
" together with the necessary personal property belong-
" ing to said corporation, shall be exempt from taxation."

In " An act to incorporate Le Roy Seminary, in McLean " County, Illinois," made a public act. (Pr. Laws 1853, p. 547.)

§ 11. " The block or lots of land on which the build- " ings may be erected, belonging to said institution, not " exceeding ten acres of land, with the improvements " thereon, and all the personal property of the corpora- " tion, shall be exempt from taxation for any purpose " whatever."

In " An act to incorporate the Illinois Military Insti- " tute." (Pr. Laws 1855, p. 509.)

§ 7. " The lot of land on which the building may be " erected, not exceeding in quantity twenty acres, with " the improvements thereon, and all the personal property " of the corporation shall be exempt from taxation for any " purpose whatever."

In " An act to incorporate the German School Associa- " tion of Mascoutah," made a public act. (Pr. Laws 1855, p. 514.)

§ 9. " The school house of the association and the fix- " tures in the same, the books and library of the associa- " tion, and the lot of ground on which their school house " is, or may be erected, shall be exempt from taxation."

In " An act to incorporate the University of Chicago," made a public act. (Pr. Laws 1857, p. 100.)

§ 10. " The tract of land, not to exceed one hundred " and sixty acres, on which the university is erected, be- " longing to the said university, is hereby declared ex- " empt from taxation or assessment, for all and any pur- " poses whatever."

In " An act to incorporate the Hedding Seminary and " Central Illinois Female College, in the village of Abing-

" don, in the county of Knox, and State of Illinois." (Pr. Laws 1857, p. 315.)

§ 10. " The lot of land on which the buildings may be " erected, not exceeding five acres, together with the im- " provements thereon, and all the personal property of the " corporation, shall be forever exempt from taxation."

In " An act to incorporate the Fowler Female Institute," made a public act. (Pr. Laws 1857, p. 353.)

§ 1. Provides that the corporation be capable " of " taking and holding by gift, grant or devise, or otherwise, " or of purchasing, holding, leasing and conveying, both " in law and equity, any estate, real, personal or mixed " not exceeding in value fifty thousand dollars, as may be " devoted and used for the accommodation and mainte- " nance of educational purposes, connected with said insti- " tute, and no other, free from taxation, for any and all " purposes whatever."

In " An act to incorporate the Almira College, Green- " ville, Bond County, Illinois." (Pr. Laws 1857, p. 582.)

§ 4. " The college buildings, and the grounds con- " nected therewith, and all the books, furniture, cabinets, " apparatus, and all other things and means for affording " instruction, shall be forever exempted from State and " county taxes."

In " An act to change Marshall Academy to Marshall College," made a public act. (Pr. Laws 1857, p. 831.)

§ 12. " The property, real and personal, of said college, " shall be exempt from any taxation or assessment for " State, county, township, road, city or school purposes, " while owned and occupied by the college for college and " school purposes."

In " An act to incorporate the Virginia Female Sem-

inary of Providence Presbyterian Church, of Cass County," made a public act. (Pr. Laws 1857, p. 843.)

§ 7. "The lot of land on which the buildings may be "erected, not exceeding twenty acres, with the improve- "ments thereon, and all the personal property of the cor- "poration, shall be exempt from taxation for any purpose "whatever."

In "An act incorporating the Hamilton College," made a public act. (Pr. Laws 1857, p. 889.)

§ 4. "and the real estate upon which said institution "is located, not exceeding 40 acres, and the personal prop- "erty necessary, all moneys and securities which, or the "proceeds of which shall be held by them for educational "purposes only, shall be exempt from taxation."

In "An act to incorporate the Henry Female Seminary, in Marshall County, Illinois," made a public act. (Pr. Laws 1857, p. 1063.)

§ 5. "The five (5) acres of land, being the northeast cor- "ner of the southeast forty of the southeast quarter of sec- "tion eight (8), town thirteen (13) north, range (10) nine "east, pertaining to the seminary, together with the build- "ings thereon, for educational purposes, their furniture, "apparatus, library and fixtures, with such funds as are or "may be hereafter raised for a permanent fund, to assist "the indigent, provided they all do not exceed one hun- "dred thousand dollars in value, shall be forever exempt "from taxation for town, city, county or State purposes."

In "An act to incorporate the McHenry Institute," made a public act. (Pr. Laws 1857, p. 1374.)

§ 16. "The tract of land not exceeding twenty acres, on "which the buildings of the institute may be erected, to- "gether with all furniture, books and apparatus belonging "to said institute, shall be exempt from all taxes."

In "An act to incorporate the Ewing Female Universi-
"ty," made a public act. (Pr. Laws 1859, p. 363.)

§ 8. "All the property, real and personal, at any time
"belonging to said university, shall be held and used by its
"board of trust solely for the promotion of female educa-
"tion, and while so held and used shall not be subject to
"taxation for any purpose whatever: Provided, the prop-
"erty so exempt shall not exceed in value fifty thousand
"dollars."

In "An act to incorporate the Nashville Male and Fe-
"male Seminary." (Pr. Laws 1859, p. 370.)

§ 11. "The block of lots or tract of land on which the
"buildings may be erected, belonging to said institution,
"not exceeding ten acres of land, with the improvements
"thereon, and all personal property belonging to said cor-
"poration, shall be exempt from taxation for any purpose
"whatever."

In "An act to incorporate the Decatur Seminary," made a public act. (Pr. Laws 1861, p. 13.)

§ 4. "Any real estate acquired by this corporation
"within the city limits of Decatur, not exceeding ten acres,
"and held for the uses and purposes of the corporation, as
"well as personal property for the same purposes, shall
"be exempt from all taxation."

In "An act to exempt certain property of the American
"Bible Society from taxation." (Pr. Laws 1861, p. 45.)

§ 1. Enacts: "That the following property, that is
"now or may hereafter be owned by the American Bible
"Society, shall be exempt from all taxes whatsoever, to
"wit: real estate, not exceeding in value one thousand
"dollars, together with all bibles, and testaments, and arti-
"cles of personal property, used by said society, or neces-
"sary for the prosecution of the objects of said society."

In "An act to incorporate the Illinois Astronomical "Society." (Pr. Laws 1861, p. 546.)

§ 7. "The directors shall not have power to create any "lien or incumbrance upon the lot on which the observa- "tory is built, or the buildings or their appurtenances, or "any instrument or article therein ; nor shall the said lot "or building, or the appurtenances thereof, be liable to be "sold under any decree, judgment or execution ; nor shall "the same be taxed for any purpose whatever."

In "An act to incorporate the Illinois Female College," made a public act. (Pr. Laws 1863, p. 18.)

§ 9. "The lot of land, formerly owned by the Illinois "Conference Female Academy, and to be conveyed to "this corporation, with the improvements thereon, con- "taining about five acres, shall be exempt from taxa- "tion, for State, county and corporation purpose, so long "as the same is used for the purposes of this corporation."

In "An act to incorporate the Grand Prairie Seminary "and Commercial College," made a public act. (Pr. Laws 1865, Vol. 1, p. 23.)

§ 9. "The property, real and personal, of said college, "shall be exempt from any taxation or assessments, for "State, county, township, road, city, or school purposes, "while owned and occupied by the college, for college or "school purposes."

In "An act to incorporate the Mount Zion Male and "Female Seminary." (Pr. Laws 1865, Vol. 1, p. 25.)

§ 8. "The buildings and adjacent grounds, the books, "apparatus, and other property used by said seminary, "shall be exempt from taxation."

In "An act to incorporate the Old Ladies' Home of "Chicago, Illinois." (Pr. Laws 1865, Vol. 1, p. 76.)

§ 1. "such real estate not to exceed in value the sum " of fifty thousand dollars, and of which the house itself, " or homestead buildings proper, with the lot or lots on " which it may be situated, to be free from all taxation so " long as held and used for the benevolent and charitable " purposes of the society."

In "An act to incorporate the Redemptorist Fathers " of Chicago." (Pr. Laws 1865, Vol. 1, p. 88.)

§ 4. "and all real estate and personal property to an " amount not exceeding one hundred thousand dollars in " all, held by or for the use of said corporation, and occu- " pied or used by it, shall be free from taxation."

In "An act to incorporate the Simpson Seminary and " Collegiate Institute," made a public act. (Pr. Laws 1867, Vol. 1, p. 10.)

§ 13. "The property, both real and personal and mixed, " belonging to this corporation, at any time during its " existence, such as may be used and occupied for college " purposes, shall forever be, and remain free from tax- " ation."

In "An act to incorporate the McDonough Normal and " Scientific College." (Pr. Laws 1867, Vol. 1, p. 18.)

§ 6. "The lands, lots, buildings, library, chemical, phil- " osophical, or other apparatus belonging to said corpora- " tion, and used for school purposes, not exceeding in value " the sum of twenty thousand dollars, is, and the same " shall be, forever exempt from taxation for State, county, " or corporate purposes."

In "An act to incorporate the United Presbyterian " Theological Seminary of the Northwest," made a public act. (Pr. Laws 1867, Vol. 1, p. 20.

§ 12. "The tract of land on which the buildings of the

" said seminary may now or hereafter be erected, together " with all the furniture, books, apparatus, and all property, " real and personal, moneys, effects, notes, bonds, bills, " and evidences of indebtedness belonging to the said " seminary, shall be, and are hereby, exempt from all taxes " to the amount of one hundred thousand dollars."

In " An act to incorporate the Kankakee Male and Fe- " male Seminary," made a public act. (Pr. Laws 1867, Vol. 1, p. 25.)

§ 8. " All property, of whatever kind or description, " belonging to or owned by said corporation, or held in " trust by any person or persons, whether it be held in fee " or a limited duration, shall be free from taxation, for any " and all purposes whatever, so long as it is held, used, or " intended for school purposes, the amount so exempt not " to exceed twenty thousand dollars."

In " An act to amend an act entitled ' An act to incor- " porate the Evangelical Lutheran Synod of Missouri, " Ohio and other States,' approved February 16th, 1865." (Pr. Laws 1867, Vol. 1, p. 242.)

§ 2. " And the real estate of the said corporation, to the " amount of thirty thousand dollars, actually used for edu- " cational purposes shall be exempt from State, county and " township taxation."

In " An act to incorporate the Womens' Hospital of " Quincy," made a public act. (Pr. Laws 1867, Vol. 2, p. 77.)

§ 1. " And such building or buildings, which said cor- " poration shall erect for hospital purposes, shall, with the " lands absolutely necessary for said hospital while they " are used and occupied by said corporation exclusively " and solely for hospital purposes as herein specified, shall

" be exempt from city, county and State taxation, but not " otherwise."

In " An act to incorporate the Institution of Protestant " Deaconesses, and to provide for the management and con- " trol of an hospital in Chicago." (Pr. Laws 1867, Vol. 2, p. 81.)

§ 2. " That the objects of this association shall be the " relief of the sick and insane, the care of orphans, the " education of youth, and the exercise of mercy to the un- " fortunate and destitute, and that the property of said as- " sociation occupied for these purposes, and the income " used in their support, shall be exempted from taxation."

In " An act to incorporate the Library Hall Company, " of Quincy," made a public act. (Pr. Laws 1867, Vol. 2, p. 246.)

§ 3. " The funds of this corporation, hereby created, are " hereby exempted from taxation, and shall be expended, " as is hereinafter provided, in buying an adequate lot or " piece of ground and erecting thereon a building, suffi- " cient and commodious for the use of the Quincy library, " which ground and building, while the same or any part " thereof shall be occupied and used as a public library, " shall not be subject to taxation."

In " An act to amend an act entitled ' An act to incor- " porate the Young Men's Christian Association, of Chi- " cago.' " (Pr. Laws 1867, Vol. 2, p. 269.)

§ 1. Provides that certain described lots and premises shall be exempt from taxation and continues : " and this " association shall also have power to purchase, hold, en- " joy and convey other real estate for the purpose of estab- " lishing and maintaining free libraries and reading rooms, " and for benevolent and religious purposes; and the same, " while it shall be held or owned by or for said association

" for its own use, together with all personal property held " or owned by or for said association, shall be in like man- " ner exempt from taxation, except as hereinafter provided."

§ 8. " In case the income of said association exceeds the " expenses and disbursements necessary to carry out the " object of said association, the exemptions from taxation " shall not apply to any such excess."

In " An act to incorporate the Havana German School " Association," made a public act. (Pr. Laws 1867, Vol. III, p. 37.)

§ 7. " The lots, buildings, furniture and apparatus of the " said corporation, which are actually used for school pur- " poses, shall be forever exempt from all State, county, " corporation or special taxation whatever."

In " An act to incorporate the Quincy College," made a public act. (Pr. Laws 1869, Vol. 1, page 26.)

§ 7. " The property mentioned in the preamble of this " act, when conveyed to said corporation, and any other " land contiguous thereto, which said corporation may " hereafter acquire, with all buildings and improvements " now situate or hereafter to be situate thereon, while " the same is actually used for educational purposes, shall " be exempt from every species of taxation for State, " county, and municipal purposes, and shall remain so ex- " empt so long as the same is used for the uses of educa- " tion, as aforesaid; provided, that not more than five acres " of land shall be exempt from taxation, under the provis- " ions of this section."

In " An act to amend an act to incorporate the Almira " College, of Greenville, Bond County, Illinois, approved " February 13, 1857." (Pr. Laws 1869, Vol. 1, p. 36.)

§ 1 enacts: " That all the property of said corporation, " held and used exclusively for school purposes, shall be

" free from all State, county and municipal taxation, as " now provided in the act of incorporation, of which this " is an amendment."

In " An act to amend an act entitled ' An act to incor- " ' porate the Virginia Seminary of the Cumberland " ' Presbyterian Church,' approved June 14, 1852, and an " act amendatory thereof, approved June 1, 1857," made a public act. (Pr. Laws 1869, Vol. 1, p. 49.)

§ 9. " The lot of land on which the buildings stand, " not exceeding in quantity twenty acres, with the im- " provements thereon, and all the personal property of the " corporation, shall be exempt from taxation for any pur- " pose whatever."

In " An act to incorporate the Villa Ridge Lyceum and " Library Association," made a public act. (Pr. Laws 1869, Vol. 2, p. 672.)

§ 1. " The property of said association shall be, to the " amount of five thousand dollars in value, exempt from " taxation for State, county, and municipal purposes."

In " An act to incorporate the Adelphian Literary " Society of the town of Carbondale, Jackson County, " Illinois." (Pr. Laws 1869, Vol. 2, p. 674.)

§ 4. " The property of said society, not exceeding " twenty-five thousand dollars, acquired and used for the " purposes herein contemplated, shall be exempt from " taxation for State, county, or municipal purposes."

In " An act to incorporate the Alexian Brothers of " Chicago." (Pr. Laws 1869, Vol. 2, p. 675.)

§ 4. " And all real estate and personal property, to an " amount not exceeding one hundred thousand dollars in " all, held by or for the use of said corporation, and occu- " pied or used by it, shall be free from taxation."

In "An act to incorporate the Chicago Academy of "Desi gn," made a public act. (Pr. Laws 1869, Vol. 2 p. 676.)

§ 5. "The personal property of said corporation, used "for the purposes for which it is created, shall be exempt "from taxation."

General Revenue Laws. Provisions for Exemption.

Revenue Law of 1845.

Sec. 4. "The following property shall be exempt from "taxation. *First*, the real and personal property of the "United States and of this State. *Second*, all lands sold "by the United States, until the term of five years from "the sale thereof, shall have expired: *Provided*, that if "Congress shall pass a law, expressing the consent of the "federal government that such lands may be taxed as "soon as sold, then they shall be subject to taxation in ac- "cordance with the provisions of such law: *Provided, "further*, that this exemption shall not extend to lands "acquired by the United States by purchase of individuals "on the re-sale of such lands by the United States. *Third*, "all lands belonging to the school fund of any township "in this State, and every school-house, court-house, jail, "and the land whereon such buildings are situated, all "property which is, or may be exempt from taxation by "special law, and all county lands and buildings set apart "for county purposes, not to exceed five acres. *Fourth*, "every building erected for religious worship, the pews "and furniture within the same, and the land whereon "such building is situated, not exceeding ten acres; also,

" every burial ground not exceeding ten acres, or such " quantity as in any case may have heretofore been ex- " empted by law : *Provided*, that such personal or real " property shall not be exempt from taxation longer than " the same is so used. *Fifth.* every building erected for " the use of every literary, religious, benevolent, charitable " or scientific institution, and the tract of land on which " the same is situated, not exceeding ten acres ; also, the " personal property belonging to any such institution, and " connected with and set apart for the use thereof."

(Stat. of Ill. 1856, p. 876.)

Revenue Law of 1853.

Sec. 3. " All property described in this section, to the " extent herein limited, shall be exempt from taxation, that " is to say :

" *First.* All lands donated for school purposes, and not " sold or leased. All public school-houses, and houses " used exclusively for public worship, the books and fur- " niture therein, and the grounds attached to such building " necessary for the proper occupancy, use and enjoyment " of the same, and not leased or otherwise used with a " view to profit. All colleges, academies : all endow- " ments made for their support ; all buildings connected " with the same, and all lands connected with institutions " of learning, not used with a view to profit. This pro- " vision shall not extend to leasehold estates of real prop- " erty, held under the authority of any college or univer- " sity of learning.

" *Second.* All lands used exclusively as grave yards, " or grounds for burying the dead.

" *Third.* All government lands belonging to the United " States, and all property, whether real or personal, be- " longing to this State, and all swamp and overflowed lands

" belonging to the several counties of this State, so long " as the same may remain unsold by such counties.

" *Fourth.* All buildings belonging to counties used for " holding courts, for jails, or for county offices, with the " ground on which such buildings are erected, not exceed- " ing, in any county, ten acres.

" *Fifth.* All lands, houses, and other buildings belong- " ing to any county, town or city, used exclusively for the " accommodation or the support of the poor.

" *Sixth.* All buildings, with the furniture appertaining " thereto, belonging to institutions of purely public charity, " together with the lands actually occupied by such insti- " tutions, not leased or otherwise used with a view to " profit; and all moneys and credit appropriated solely " to sustaining, and belonging exclusively to, such institu- " tions." (Stat. of Ill. 1856, p. 919.)

Revenue Law of 1872.

" § 2. All property described in this section, to the ex- " tent herein limited, shall be exempt from taxation; that " is to say:

" *First.* All lands donated by the United States for " school purposes, not sold or leased. All public school " houses. All property of institutions of learning, includ- " ing the real estate on which the institutions are located, " not leased by such institutions, or otherwise used with " a view to profit.

" *Second.* All church property actually and exclusively " used for public worship, when the land (to be of reason- " able size for the location of the church building) is owned " by the congregation.

" *Third.* All lands used exclusively as grave yards, " or grounds for burying the dead.

"*Fourth.* All unentered government lands; all public "buildings, or structures of whatsoever kind, and the con- "tents thereof, and the land on which the same are lo- "cated, belonging to the United States.

"*Fifth.* All property of every kind belonging to the "State of Illinois.

"*Sixth.* All property belonging to any county, town, "village or city, used exclusively for the maintenance of "the poor. All swamp or overflowed lands belonging to "any county, so long as the same remain unsold by such "county. All public buildings belonging to any county, "township, city or incorporated town, with the ground "on which such buildings are erected, not exceeding in "any case ten acres.

"*Seventh.* All property of institutions of purely public "charity, when actually and exclusively used for such "charitable purposes, not leased or otherwise used with "a view to profit; and all free public libraries.

"*Eighth.* All fire engines, and other implements used "for the extinguishment of fires, with the building used "exclusively for the safe-keeping thereof, and the lot of "reasonable size on which the building is located, when "belonging to any city, village or town.

"*Ninth.* All market houses, public squares, or other "public grounds used exclusively for public purposes. All "works, machinery and fixtures belonging exclusively to "any town, village or city, and used exclusively for con- "veying water to such town, village or city.

"*Tenth.* All property which may be used exclusively "by societies for agricultural, horticultural, mechanical "and philosophical purposes, and not for pecuniary profit." (Rev. Stat. Ill. 1877, p. 814).

WIRT DEXTER,

Attorney for Plaintiff in Error.

March 18. 79. N. H. Swayne

Supreme Court of the United States.

No. 184. OCTOBER TERM, 1878.

THE NORTHWESTERN UNIVERSITY, PLAINTIFF IN ERROR,

vs.

THE PEOPLE EX REL, HENRY B. MILLER, COUNTY TREASURER, &C.

The State of Illinois in 1851 incorporated the plaintiff in error. (Record, p. 12.)

In 1855 the charter was amended as follows:

"SEC. I. That John L. Smith, Aron Wood, Luther Taylor, and W'm Graham, and such other persons as shall be elected to succeed them by the Northwest Indiana Conference of the Methodist Episcopal Church, be, and they are hereby, constituted members of the board of trustees of the Northwestern University.

SEC. II. No spirituous, vinous, or fermented liquors shall be sold, under license or otherwise, within four miles of the location of said university, except for medicinal, mechanicals, and sacramental purposes, under a penalty of twent-five dollars for each offense, to be recovered before any justice of the peace of said county of Cook: *Provided*, That so much of this act as relates to the sale of intoxicating drinks within four miles may be repealed by the General Assembly whenever they may think proper.

SEC. III. The said incorporation shall have power to take, hold, use and manage, lease, and dispose of all such property as may in any manner come to said corporation charged with any trust or trusts, in conformity with such trusts and direction, and so execute all such trusts as may be confided to it.

SEC. IV. *That all property, of whatever kind or description, belonging to or owned by said corporation, shall be forever free from taxation for any and all purposes.*

SEC. V. This act shall be public and take effect from and after its passage." (Record, pp. 14, 15.)

This amendment was accepted by the corporation, since which more than $200,000 received by donations of the patrons of the institution have been expended in carrying out the object for which the corporation was created. These donations were made after and in consequence of the exemption of the property from taxation. (Record, pp. 7, 8, 11.)

The Constitution of 1848, in force when the charter and amendment were passed, provided as follows (art. 9, sec. 3):

"SEC. 3. The property of the State and counties, both real and personal, and such other property *as the General Assembly may deem* necessary for *school*, religious, and charitable *purposes*, may be exempt from taxation."

The general revenue law in force when the charter and amendment were passed, provided that all property of individuals or corporations should be taxed, except as follows:

"SEC. 3. All property described in this section to the extent herein limited, shall be exempt from taxation, that is to say:

I. All lands donated for school purposes, and not sold or leased. All public school houses, and houses used exclusively for public worship, the books and furniture therein, and the grounds attached to such building necessary for the proper occupancy, use, and enjoyment of the same, and not leased or otherwise used with a view to profit. All colleges, academies, all endowments made for their support; all buildings connected with the same, and all lands connected with institutions of learning, not used with a view to profit. This provision shall not extend to lease-

hold estates of real property held under the authority of any college or university of learning."

The effect of the charter and amendment was to add to this exemption *the property owned by the plaintiff in error;* and with this additional exemption, the general revenue law continued in force, and the plaintiff in error enjoyed the benefit of the contract not to tax for nineteen years.

But in 1870, the State changed its Constitution, inaugurating a totally new policy in relation to lands to be held or owned for school purposes. It provided as follows (art. 9):

"Sec. 9. The property of the State, counties, and other municipal corporations, both real and personal, and such other property *as may be used exclusively* for agricultural and horticultural societies, *for school*, religious, cemetery, and charitable *purposes*, may be exempted from taxation; *but such exemption shall be only by general law.* In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property."

And in 1872 the Legislature enacted a new general revenue law to carry out the intent of the new Constitution. It subjected all property in the State to taxation, with the following exception:

"First. All lands donated by the United States for school purposes, *not sold or leased.* All public school houses. All property of institutions of learning, including the real estate on which the institutions are located, *not leased by such institutions* or otherwise used with a view to profit.

Second. All church property actually and exclusively used for public worship, when the land (to be of reasonable size for the location of the church building) is owned by the congregation."

Now, apart from all constitutional provisions, State or Federal, it cannot be denied that this last revenue law re-

pealed the exemption ingrafted upon the old revenue law by the charter and amendment. The old revenue law, after the charter and amendment were passed, provided that all property, except, &c., and except the property owned by the plaintiff in error, should be subject to taxation. The last act provided that all property should be taxed, *not* excepting the property of the plaintiff in error. The act of 1872, instead of being a revision of the old law and the exception thereto created by the charter and amendment, re-enacted the old law without the exception made by the charter and amendment, and therefore amounts to a repeal of the exception, unless that effect is denied to it by constitutional provisions.

We may lay aside the State Constitution, because this court cannot reverse a judgment enforcing a law merely in conflict with a State Constitution; but we claim that the Constitution of the United States, denying to any State the right to pass a law impairing the obligation of a contract, invalidates the new law, so far as it repeals the effect of the charter and amendment, and *this is a Federal question*, over which this court has jurisdiction.

I.

The case in the State court was this:

The State authorities, proceeding under the act of 1872, assessed and levied a tax upon our property, and went into court to enforce it. We objected that the charter and amendment amounted to a contract, on the part of the State, never to tax our property, and that the Constitution of the United States protected that contract from the effect of the act of 1872, under which the proceedings were taken. The court overruled our claim of protection under the Constitution of the United States, and ordered our property to be sold under the act of 1872.

There can be no question that the case involved a Fed-

eral question, and that the judgment was adverse to the claim set up under the Federal Constitution. Now, it is wholly immaterial what reasons the court gave for its judgment. It is the judgment, and not the reasons given for it, that we seek to reverse.

Suppose the court below had held that the contract was valid when made, but that the change of State Constitution and the act of 1872 had the legal effect to destroy the contract. In such case, the argument opposed concedes that this court would have jurisdiction. But this court has repeatedly decided, that in such case the jurisdiction of this court to protect the contract cannot be taken away because the court decided the case upon the ground that the legislation was valid, *because* the contract was void. The two questions—

(1) Was there a contract by the charter and amendment, and its acceptance by the plaintiff in error, and the donation and expenditure of money on the faith of it? and

(2) Is the contract destroyed, *or its obligation impaired*, by sustaining the proceedings in question?

—are both before this court in this case.

Bank v. *Skelly*, 1 Black, 436.
Bridge v. *Hoboken Co.*, 1 Wall., 116.
Bank v. *Knoop*, 16 How., 369.
Delmas v. *Ins. Co.*, 14 Wall., 668.

II.

The only question deserving attention is, Did the charter and amendment, and its acceptance and the donation of money to, and its expenditure by, the corporation for the purpose intended to be secured by the charter and amendment, constitute a contract?

That this charter and amendment, if it was in the power of the Legislature to enact them, and their acceptance

created a contract protected by the Federal Constitution, was decided in the celebrated Dartmouth College case, which decision has been followed ever since, and its doctrine is as well established as the text of the Constitution itself. After stating the facts of that case, which were, substantially, the facts of this case, Chief Justice Marshall says:

"It can require no argument to prove that the circumstances of this case *constitute a contract.* An application is made to the Crown for a charter to incorporate a religious and literary institution. In the application it is stated that large contributions have been made for the object, which will be conferred on the corporation as soon as it shall be created. The charter is granted, and on its faith the property is conveyed. Surely in this transaction every ingredient of a complete and legitimate contract is to be found."

In Home *v.* Rouse, 8 Wall., 436, this court, after pointing out the benefits to the public of such a charitable institution, say:

"It was doubtless under the influence of these considerations, and because every government wishes to encourage benevolent enterprises, that the Legislature granted the charter for the home of the friendless, and said to the charitable persons engaged in this business, that if they would organize the society and conduct its affairs, would give themselves and solicit others to give for the common purpose, 'that the property of the corporation shall be exempt from taxation.' *This charter is a contract between the State of Missouri and the corporators* that the property given for the charitable uses specified in it shall, so long as it is applied to these uses, be exempted from taxation. It follows, that *any attempt* to tax it impairs the obligation of the contract. It is proper to observe, that the immunity from taxation does not attach to the property after the corporation has parted with it, but is operative on it while owned by the corporation and devoted to the uses for which it was originally given.

"*It is objected that there is no consideration stated in the act*

for the release from taxation, which it is claimed is necessary in order to uphold the contract. But this is a mistaken view of the law on this subject.

"There is no necessity of looking for the consideration for a legislative contract outside of the objects for which the corporation was created. These objects *were deemed by the Legislature* to be beneficial to the community, and this benefit constitutes the consideration for the contract, and *no other is required to support it.* This has been the well-settled doctrine of this court on this subject since the case of *Dartmouth College* v. *Woodward.*"

III.

After these decisions of this court, no time need be taken to argue that the original charter of this institution was a contract, protected by the Constitution of the United States.

But it was claimed in the court below, and may be here, that because this provision was not contained in the original charter, but was granted in the amendment, it was in the nature of a privilege of exemption, which it was in the power of the State to revoke at pleasure.

The provision in question was only one of the four sections of the amendatory act of 1855.

By the original act the board of trustees was to be composed of 36 persons, four from each of six conferences named, and twelve at large, and the term of office of each trustee was fixed at four years; each of the conferences named was empowered to appoint annually two additional persons, "visitors to said university, who shall attend the examination of students, and be entitled to participate in the deliberations of the board of trustees, and enjoy all the privileges of said board, except the right to vote."

By the amendment of 1855, which contained a provision of exemption from taxation, four persons and their successors, representing an additional conference—the Northwest Indiana Conference—are added to the board of trustees, and the powers and corresponding obligations of the uni-

versity are enlarged by an authority to assume and execute trusts.

By the amendment of 1861, the representation from each of the conferences entitled to representation under the original act was reduced to two, and their term of office to two years, and the university was empowered by agreement to annex as a department any outside chartered institution of learning

By the third and last amendment of 1867, the organization of the board of trustees was again remodeled by authorizing the board to add to its number 24 members, without reference to their places of residence, and the name of the corporation was changed.

And this amendatory act declared that by such new name the corporation should thereafter be known, and should "have and exercise all the powers and immunities conferred on said corporation by said (original) act of corporation, and all acts *amendatory thereto*."

All of these acts purport, on their face and by their titles, to be amendments to the charter itself.

By this amendment the General Assembly greatly changed and remodeled the original charter, in essential particulars, wholly beyond legislative power, without the assent and acceptance of the corporators.

The changes made by the act of 1855, by which the board of trustees was enlarged, and new duties and corresponding obligations were imposed, were material and fundamental.

To become operative, they needed the acceptance of the corporation—they were coupled with the promised exemption from taxation.

This amendment was accepted *as a whole*, and became, when accepted and acted upon, a part of the contract, and mutually binding on both parties.

The other amendments contain equally important changes, which were also accepted, and thus embodied in the con-

tract with a final pledge and assurance from the State that the corporation as thus remodeled should have all the powers and immunities conferred by the original act and all acts amendatory thereto.

The enlargement of the board of trustees, changing the name of the corporation, and enlarging the powers of that to a university, were the chief objections to the amendatory acts in the Dartmouth College case. These changes were of so essential a character, in the view of the court, that their attempted enforcement against the will of the corporation was held to be a violation of the obligation of the original contract.

Chief Justice Marshall says (4 Wheat., p. 650): "From the view of this charter which has been taken, it appears that the whole power of governing the college, of appointing and removing tutors, of fixing salaries, of directing the course of studies to be pursued by the students, of filling up the vacancies created in their own body, was vested in the trustees. On the part of the Crown it was expressly stipulated that this corporation, thus constituted, should continue forever; and that the board of trustees should forever consist of twelve, and no more. By this contract the Crown was bound, and could have made no alteration in its essential parts without impairing its obligation."

Justice Story says: "Under the late acts, trustees and visitors are different; * * * unless the power be reserved for this purpose, the Crown cannot, in virtue of its prerogative, without the consent of the corporation, alter or amend the charter or divest the corporation of any of its franchises, or add to them, or add to or diminish the number of trustees, or remove any of their number, or change or control the administration of the charity, or compel the corporation to receive a new charter."

After enumerating the changes effected by the amendatory acts, prominent among which was the adding nine

additional members to the board of trustees, Justice Story concludes as follows:

"If these are not essential changes in impairing the rights and authorities of the trustees, and vitally affecting the interests and organization of Dartmouth College under its old charter, it is difficult to see what acts short of an unconditional repeal of the charter could have that effect. If a grant of land, or a franchise, be made to A in trust for a special purpose, could the grant be revoked, and a new grant thereof be made to A, B, and C, in trust for the same purpose, without violating the obligation of the first grant? If property be vested in A and B for the use of the college or institution to provide funds, is not the obligation of that part impaired when the estate is taken from their *exclusive management, and vested in them in common with ten other persons?* If the power of appointment be given to A and B, is it no violation of their right to annul the appointment, unless it be assented to by five other persons, and then confirmed by a distinct body?

"If a bank or insurance company, by the terms of its charter, be under the management of the board of trustees elected by its stockholders, would not rights accrue if the Legislature should take the right of election from the stockholders and appoint directors unconnected with the corporation? These questions carry their own answers along with them."

In determining the question, whether the exemption in question forms a part of the chartered and vested rights of the plaintiff in error—a part of this contract with the State—all of the amendments should be viewed as a whole and in connection with the original act. If the State and corporation possessed the original power to contract, the same contracting parties were competent to change or modify their contract. If the original act, when accepted and acted upon, formed a contract between the State and corporators, so also, and for the same reason, did the amendatory acts constitute modifications of this contract. The same construction which supports the original contract

supports its modifications; and both contracting parties are as much bound by these modifications—or, rather, by the entire contract as modified—as by the contract in its original terms.

These amendatory acts, including the act of 1855, are in their nature substantial modifications of the fundamental, chartered, and vested rights of the corporation. They were tendered by the State, including its immunity from taxation, and they were accepted and acted upon by the corporation and its patrons.

It is admitted by the stipulation in the case, that, "since "the granting of said charter of corporation and the "amendment thereof," the corporation has expended for the erection and purchase of buildings, and so forth, for the promotion of the objects stated in and contemplated by the act of corporation, over $200,000, *realized from donations* and from the sales of lots and lands.

If the consideration is to be sought outside of what is furnished by the original charter, which we deny, the acceptance of the burdens imposed by these amendments is ample consideration for the immunity from taxation which they afford. And those who, on the faith of this charter, (including the amendments) have from their private means made donations to this institution by way of endowments, have the right to demand that these endowments shall be preserved sacred to the purposes of the trust, relieved from the burdens of taxation.

That the Legislature intended this exemption as an irrevocable grant, cannot be doubted. The language of the amendatory act itself makes this clear. It declares that all property of this institution "shall be forever free from taxation for any and all purposes." And it provides, "that so much of this act as relates to the sale of intoxicating drinks within four miles, *may be repealed* by the General Assembly whenever they think proper." Plainly implying, that the clause exempting from taxation may not be repealed.

additional members to the board of trustees, Justice Story concludes as follows:

"If these are not essential changes in impairing the rights and authorities of the trustees, and vitally affecting the interests and organization of Dartmouth College under its old charter, it is difficult to see what acts short of an unconditional repeal of the charter could have that effect. If a grant of land, or a franchise, be made to A in trust for a special purpose, could the grant be revoked, and a new grant thereof be made to A, B, and C, in trust for the same purpose, without violating the obligation of the first grant? If property be vested in A and B for the use of the college or institution to provide funds, is not the obligation of that part impaired when the estate is taken from their *exclusive management, and vested in them in common with ten other persons?* If the power of appointment be given to A and B, is it no violation of their right to annul the appointment, unless it be assented to by five other persons, and then confirmed by a distinct body?

"If a bank or insurance company, by the terms of its charter, be under the management of the board of trustees elected by its stockholders, would not rights accrue if the Legislature should take the right of election from the stockholders and appoint directors unconnected with the corporation? These questions carry their own answers along with them."

In determining the question, whether the exemption in question forms a part of the chartered and vested rights of the plaintiff in error—a part of this contract with the State—all of the amendments should be viewed as a whole and in connection with the original act. If the State and corporation possessed the original power to contract, the same contracting parties were competent to change or modify their contract. If the original act, when accepted and acted upon, formed a contract between the State and corporators, so also, and for the same reason, did the amendatory acts constitute modifications of this contract. The same construction which supports the original contract

supports its modifications; and both contracting parties are as much bound by these modifications—or, rather, by the entire contract as modified—as by the contract in its original terms.

These amendatory acts, including the act of 1855, are in their nature substantial modifications of the fundamental, chartered, and vested rights of the corporation. They were tendered by the State, including its immunity from taxation, and they were accepted and acted upon by the corporation and its patrons.

It is admitted by the stipulation in the case, that, "since "the granting of said charter of corporation and the "amendment thereof," the corporation has expended for the erection and purchase of buildings, and so forth, for the promotion of the objects stated in and contemplated by the act of corporation, over $200,000, *realized from donations* and from the sales of lots and lands.

If the consideration is to be sought outside of what is furnished by the original charter, which we deny, the acceptance of the burdens imposed by these amendments is ample consideration for the immunity from taxation which they afford. And those who, on the faith of this charter, (including the amendments) have from their private means made donations to this institution by way of endowments, have the right to demand that these endowments shall be preserved sacred to the purposes of the trust, relieved from the burdens of taxation.

That the Legislature intended this exemption as an irrevocable grant, cannot be doubted. The language of the amendatory act itself makes this clear. It declares that all property of this institution "shall be forever free from taxation for any and all purposes." And it provides, "that so much of this act as relates to the sale of intoxicating drinks within four miles, *may be repealed* by the General Assembly whenever they think proper." Plainly implying, that the clause exempting from taxation may not be repealed.

But this precise question has been passed upon by this court.

In *Tomlinson* v. *Jessup*, 15 Wall., 454. The Northeastern Railway Company was incorporated by the Legislature of the State of South Carolina in 1851. In 1855 the Legislature passed an amendment providing for exemption from taxation. The court say: "The charter of the company when accepted by the corporators constituted a contract between them and the State, and the amendment when accepted formed a part of the contract from that date, and was of the same obligatory character." After referring to the previous cases which had upheld similar provisions for exemptions as binding contracts, the court say: "In this case, and in others of a similar character, the exemption is upheld as being made upon considerations moving to the State which give to the exemption the character of a contract. It is thus that it is brought within the protection of the Federal Constitution. In the case of a corporation, the exemption, if originally made in an act of incorporation, is supported on the consideration of the duties and liabilities which the corporators assume by accepting the charter. When made, as in the present case, by amendment to the charter, it is supported on the consideration of the greater efficiency with which the corporation will thus be enabled to discharge the duties originally assumed by the corporators and the public, or by the greater facilities with which it will support its liabilities and carry out the purposes of its creation."

In *Humphrey* v. *Pegens*, 16 Wall., 244. An act was passed in 1841 to incorporate a railroad company. In 1855 the Legislature passed another act to amend the original charter, containing a provision for exemption. In 1863 an act was passed conferring on another company all the rights, powers, and privileges "granted by the charter" to the first-named road. The court held that the provision for exemption from taxation became a part

of the contract, and that its obligation could not be impaired.

The court say: "After the passage of the amended act the Northwestern was, in law, as if it had originally been chartered with all the rights, powers, and privileges granted by the act of 1855. Such was the legal effect of the amendment."

In *Pacific Railroad Company* v. *Maguire*, 20 Wall., 36. The Pacific Railroad Company was incorporated under an act passed in 1849. By an act passed in 1852 certain lands were vested in the company, and additional powers conferred. The twelfth section of this act provided that the property of the company should be exempt from taxation until certain events occurred. The court held that this provision from exemption constituted a contract. The court say: "This transaction amounts to a contract between the States and the corporation that there should be no taxation of the company until the occurrence of the stipulated events."

IV.

It only remains to consider whether the Legislature of Illinois, under the State Constitution of 1848, had authority to pass the charter and amendment in question.

That Constitution provided, that "such property *as the General Assembly may deem* necessary for school * * * purposes may be exempt from taxation."

The General Assembly, in the charter, limited the land which might be owned by this corporation to two thousand acres; and by the amendment exempted it from taxation. Was this forbidden by the State Constitution?

In examining this question, certain general principles must be borne in mind.

(1) An act of a State Legislature not in violation of the State or Federal Constitution, is valid.

(2) Before the court will declare an act of the Legislature void, the repugnance between it and the Constitution must be clear and manifest. If there be doubt, it must be resolved in favor of the legislation.

(3) When a matter is committed to the discretion of one department of the government, the exercise of that discretion cannot be reviewed by any other department.

A. Where a power is to be exercised in the discretion of the President in a certain event, he is the only judge of whether the event has happened. Neither the courts nor any one else can question his determination.

Martin v. *Mott*, 12 Wheat., 19.
Williams v. *Suffolk Ins. Co.*, 13 Pet., 420.
Marbury v. *Madison*, 1 Cranch, 49.

B. Where the discretion is committed to the Legislature, the courts cannot interfere, or revise its exercise of discretion.

Luther v. *Borden*, 7 How., 1.
Bank Rome v. *Rome*, 18 N. Y., 42.
Cooley on Const. Lim., 168, cases cited in note A.
People v. *Mahoney*, 13 Mich., 400.
Wynehamer v. *People*, 13 N. Y., 429.
People v. *Draper*, 15 N. Y., 532.
Sharpless v. *Mayor Phila.*, 21 Penn., (St.,) 147.

Had this provision been that the General Assembly might exempt such property as should be *necessary* for school purposes, there would have been more plausibility —though perhaps not more soundness—in the argument opposed. But here it is perfectly clear that the whole subject was committed to the discretion of the Legislature. The language is, "Such property as the *General Assembly* may deem necessary for school * * * purposes may be exempt from taxation."

Suppose the Legislature deem two thousand acres necessary in this instance, and the judicial courts think half that would be sufficient to secure the object: whose discretion is to govern? Manifestly that of the Legislature, because the subject is expressly committed to the discretion and determination of the legislative department, and not to the courts of law.

To hold the amount exempted from taxation in this instance *unnecessary*, would not be sufficient. Your honors must be able to go beyond that, and hold that "the General Assembly" did not *deem* it necessary; that is, this court must hold that the General Assembly acted corruptly in granting this exemption. That, this court has decided a judicial court can never do.

Fletcher v. *Peck*, 6 Cranch, 87.

V.

But, conceding the power of the courts to revise the discretion of the Legislature, there is nothing erroneous in the decision of the Legislature in this instance. The exemption of two thousand acres of land, whether actually occupied, or leased out by the corporation to raise money to carry on the school, pay teachers, &c., is clearly within the power of the Legislature and the spirit and scope of the Constitution of 1848.

MATT H. CARPENTER,
Of Counsel for Plaintiff in Error.

No. 184.

Supreme Court of the United States,

OCTOBER TERM, A. D. 1878.

THE NORTHWESTERN UNIVERSITY,
Plaintiff in Error.
—vs.—
THE PEOPLE OF THE STATE OF ILLINOIS, ex rel. HENRY B. MILLER, County Treasurer, etc.,
Defendants in Error.

Error to the Supreme Court of Illinois.

BRIEF AND ARGUMENT OF

JAMES K. EDSALL.

ATTORNEY GENERAL OF ILLINOIS,

FOR DEFENDANTS IN ERROR.

SPRINGFIELD:
H. W. ROKKER, BOOK AND JOB PRINTER.
1879.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, A. D. 1878.

THE NORTHWESTERN UNIVERSITY,
Plaintiff in Error,
v.
THE PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* HENRY B. MILLER, County Treasurer, etc.,
Defendants in Error.
} Error to the Supreme Court of Illinois.

STATEMENT OF CASE.

It appears from the record that this was an application to the County Court of Cook county, Illinois, by the treasurer and *ex-officio* collector of taxes for that county, for judgment upon delinquent taxes assessed upon a large number of town lots and other real estate owned by the plaintiff in error.

Printed Record pp. 2, 8, 17.

The plaintiff in error, in accordance with the statute of the State prescribing the practice in such cases (Rev. Stat. of Ills. p. 889, § 191), filed in the County Court its objections to the rendition of such judgment, the substance of which, so far as material to the present inquiry, is comprised in the third objection, thus:

"Because by the terms and provisions of the charter of incorporation, passed by the legislature of the State of Illinois, approved on the 25th day of January, A. D. 1851, and as amended by the act of the legislature of the State of Illinois, approved February 14, 1855, all property of whatever kind or description belonging to or owned by said corporation, was declared to be forever free from all taxation for any and all purposes whatever."

Record p. 7.

The fourth and fifth objections claim, in various forms, the benefit of the same amendatory act exempting the property from taxation as a contract, but it is nowhere claimed, or in any manner suggested, that the State had assumed to pass any law purporting to repeal, amend, or in any manner modify or impair the supposed contract.

Upon the hearing of the case in the County Court at the July Term, 1875, it was admitted "that the proper notice and return required by law had been made in the above case; upon which said applicant rested his case."

Record p. 11.

The plaintiff in error then produced in evidence the following stipulation:

"In the matter of the application to said Court of the county collector, in and for the county of Cook, aforesaid, for judg-

ment against the lots, blocks and lands belonging to the Northwestern University, assessed against the same, and described in the objections to the rendition of judgment against the same now on file in said Court, in said proceedings it is hereby stipulated by the attorneys of the parties to said proceedings, and admitted, that at the time and before said taxes were assessed and levied on said lands, lots and blocks, the same belonged to and were the property of the said Northwestern University, and still belong to it. That since the granting of said charter and the amendment thereto referred to in said objections, said incorporation has expended in the erection and purchase of buildings, apparatus and other facilities and appliances for education and for the promotion of the objects stated in and contemplated by said act of incorporation, over two hundred thousand dollars, realized from donations and the sale of lots and lands, and has built up a University with several departments of learning in which more than five hundred students are being taught the higher branches of learning.

"And it is also admitted that all the lots and lands mentioned and described in said objections filed in said proceeding for judgment whereon said taxes are levied, excepting improvements upon the same, are leased by said University to different parties for a longer or shorter period, and that all of said lands or lots are held for sale or lease for the use and support of said institution and the object contemplated in said charter. And it is further admitted that no part of the campus, or lands occupied by buildings or other direct appliances of education, is taxed or included in the lands and lots on which judgment is as aforesaid asked."

Record p. 11.

The plaintiff in error also offered in evidence its charter, consisting of an act of the General Assembly of the State of Illinois, entitled "An Act to incorporate the Northwestern University," approved January 28, 1851, which is given at length in the

Printed Record pp. 12, 14.

This act provides for the organization of a corporation under the name and style "Trustees of the Northwestern University," with appropriate powers for the establishment of an institution

of learning, and confers upon it the right to acquire and hold real and personal property for the purpose of the institution; but limits the quantity of land it may own at any one time to 2,000 acres. The original charter contained no provision purporting to exempt any of the property of the corporation from taxation.

The plaintiff in error also introduced in evidence an amendment to its charter, passed by the General Assembly of Illinois, and approved February 14, 1855, the fourth section of which is as follows:

"That all property of whatever kind or description, belonging to or owned by said corporation, shall be forever free from taxation for any and all purposes."

Printed Record p. 15.

Two other amendments to the charter were also offered in evidence, passed by the General Assembly of Illinois in the years 1861 and 1867, but neither of them contains any provision bearing upon the question of taxation. This, as appears from the Record, "was all the evidence offered in the cause."

Printed Record p. 16.

Thereupon the County Court overruled the objections, and entered judgment against the property for the taxes assessed thereon.

Ib. pp. 16, 34.

From this judgment the plaintiff in error prayed and perfected an appeal to the Supreme Court of Illinois (Ib. pp. 36–45),

and at the September Term, 1875, of that Court, made the following assignment of errors upon the record:

"First. The Court below erred in overruling the objections of appellant, and rendering judgment against the property of appellant.

"Second. The judgment of the Court below is contrary to law, wherefore appellant prays judgment," etc.

Ib. p. 46.

The cause was submitted to the State Supreme Court at that term, and held under advisement until June 30, 1876, when the judgment of the County Court was affirmed.

Ib. pp. 47–50.

The opinion of the State Court filed therein simply stated:

"This case is, in all respects, the same as docket No. 261, at the present term, between the same parties, and for the reason there given the judgment is affirmed."

Printed Record p. 47.

The opinion in the case thus referred to as No. 261, is set out at length in the Record (Ib. p. 47), and is the same case reported under the title

Northwestern University v. *The People*, 80 Ill. 333.

An examination of that opinion will show that the State Court held that the fourth section of the amendment to the charter, passed February 14, 1855, providing "that all property of whatever kind or description, belonging to or owned by said corporation, shall be forever free from taxation for any and all purposes," was repugnant to the provisions of the State constitu-

tion of 1848, in force at that time, so far as the property was not directly used for educational, religious or charitable purposes. At the conclusion of an elaborate opinion, the Court say:

"Our conclusion is, that it was not competent for the General Assembly to exempt from taxation property owned by educational, religious or charitable corporations which was not itself used directly in aid of the purposes for which the corporations were created, but which was held for profit merely, although the profits were to be devoted to the proper purposes of the corporation. To the extent, therefore, that the 4th section of the amendment to appellant's charter, approved February 14, 1855, assumes to do so, it is to be considered void and of no effect, but no further." Ib. 338.

After the cause had been thus finally disposed of in the Supreme Court of the State, the plaintiff in error procured the Hon. Benj. R. Sheldon, then Chief Justice of that Court, to make the following certificate:

"This certifies that in the above case the plaintiff in error, or appellant, claimed that the lands owned by it, which the said County Court held to be subject to taxation, were exempt from taxation under the terms of its charter, and that such charter was a contract substantially guaranteed and protected by the Constitution of the United States, and that such claim was decided adversely to the said appellant by the said Supreme Court; and such fact is hereby duly certified to the end that the said appellant may present said question to the Supreme Court of the United States for adjudication."

Printed Record p. 52.

It does not appear from this certificate, that it was even claimed that the State of Illinois had passed any law impairing the obligation of the alleged contract.

The counsel for plaintiff in error made the following assign-

ments of error upon the record in this Court, and which are re-produced in their briefs, viz: That the State Court erred—

"First. In adjudging that no valid contract existed between the State of Illinois and the plaintiff in error, by virtue of the charter granted to it by said State, and its acceptance thereof and actions thereunder, whereby the plaintiff in error was protected, by the Constitution of the United States, from the taxation complained of in these proceedings.

"Second. In adjudging that the provision of the charter of plaintiff in error exempting its property from taxation, was in conflict with the Constitution of the State of Illinois, and void.

"Third. In adjudging that the lands or lots owned by plaintiff in error and described in these proceedings, were subject to taxation for State, county and other purposes, for the year 1874, under the Constitution and laws of the State of Illinois, notwithstanding their exemption by the charter of plaintiff in error, granted by said State of Illinois and accepted by plaintiff in error."

Printed Record p. 53.

In their assignment of errors, it will be observed, counsel do not even suggest that the State has passed any subsequent law in any manner affecting or impairing the obligation of the supposed contract.

Up to this time the grievance complained of, was simply that the Supreme Court of the State erroneously construed the provision of the State Constitution, in force at the time the amendment to the charter was passed, containing the provision under which the claim of exemption from taxation was made, and thereby rendered such exemption ineffectual.

For the first time in the history of this case, it was claimed by counsel for plaintiff in error in their brief filed on the motion to dismiss the writ of error, that the revision of the Revenue Law of the State in 1872, in some manner worked a repeal or

modification of the special act purporting to exempt the property of the corporation from taxation; and thus impaired its obligation as a contract.

If such were the effect of this revision, and were the decision of the State Court founded thereon, we should concede the question of jurisdiction.

We deny this, however, and must therefore crave the indulgence of the Court to still insist that this writ of error ought to be dismissed for want of jurisdiction. The statutes of the State bearing upon this question will be examined, and so far as pertinent thereto, quoted, in the course of the following brief and argument.

BRIEF.

I

The State has passed no subsequent law repealing or impairing any of the provisions or obligations of the amendment to the charter under which the exemption from taxation is claimed.

1. The revenue law of the State passed in 1872, is a mere revision of the revenue law of 1853, and made no substantial change in the law so far as respects the question of the exemption of property from taxation.

Compare

Session Laws of 1853, p. 3, §§ 1 and 3.

Gross' Statutes of Ill. (Ed. of 1869) p. 580, §§ 45 and 47, with the corresponding provisions found in

Rev. Stat. of Ill. (of 1874) p. 857, §§ 1 and 2.

2. The revenue law of 1872 does not assume to amend or repeal any exemption contained in special charters of private corporations. Nor can it be construed as having that effect without violating the established rules of construction.

A subsequent law, which is general, does not operate as a repeal of a special law upon the same subject, without express words declaring such intention.

Town of Ottawa v. *County of LaSalle*, 12 Ill. 339.
Covington v. *East St. Louis*, 78 Ill. 549.
Board of Supervisors v. *Campbell*, 42 Ill. 490, 492.
Tyson v. *Postlehwaite*, 13 Ill. 727.
Blain v. *Baily*, 25 Ind. 165.
State v. *Newark*, 2 Dutcher, 519.
Sedgwicks' Stat. and Const. Law (2d Ed.) p. 97.

3. In this revision the Legislature left all prior special acts purporting to exempt property of particular corporations from taxation, as it found them, and did not attempt to amend or repeal any such acts.

If the exemptions claimed were originally void and ineffectual, the general provisions of both the former and present revenue laws of the State prescribing the remedy to enforce the collection of taxes, apply to such corporations as well as to all others having property subject to taxation, but otherwise not.

4. The State may lawfully change the remedy for the enforcement of the rights under pre-existing contracts, so long as no substantial right secured by the contract is impaired.

Bank v. *Dalton*, 9 How. 522.
Sampeyrac v. *United States*, 7 Pet. 222.

The enactment of laws so changing the remedy as to rights

under past contracts, cannot be justly regarded as impairing the obligation of such contracts.

5. Cases cited by counsel for plaintiff in error, where there was an actual attempt by subsequent legislation, or the adoption of a new constitution, to amend or repeal former special charters, are inapplicable to the case presented by this record. For example,

Bank v. *Skelley*, 1 Black 436–449.
Home of the Friendless v. *Rouse*, 8 Wall. 432.
Washington University v. *Rouse*, Id. 439.
State Bank of Ohio v. *Knoop*, 16 How. 369–377.
Wilmington Railroad v. *Reid*, 13 Wall. 264.
Pacific Railrod Co. v. *McGuire*, 20 Wall. 36.
Delmas v. *Insurance Company*, 14 Wall. 661.

So, also, as to cases brought here upon writ of error to the Federal Courts, like

Chicago v. *Sheldon*, 9 Wall. 50.
Humphrey v. *Peques*, 16 Wall. 244.

II.

This court will not entertain jurisdiction of a case from a State Court merely because the judgment of that Court impairs or fails to give effect to a contract.

1. In order to confer jurisdiction upon that ground, there must have been some law of the State, subsequently enacted,

which impaired the obligation of the contract; and the validity of such law must have been sustained in the State Court against this constitutional objection.

Railroad Company v. *Rock*, 4 Wall. 177.
Knox v. *Exchange Bank*, 12 Wall. 179.
Railroad Company v. *McClure*, 10 Wall. 511.

2. The Federal question, if any exists, must be disclosed by the record and proceedings as sent here from the State Court, otherwise jurisdiction will not be entertained.

Warfield v. *Chaffee*, 91 U. S. (1 Otto) 690.
Moore v. *Mississippi*, 21 Wall. 636.
Smith v. *Adsit*, 23 Wall. 368.
Parmelee v. *Lawrence*, 11 Wall. 36.
Murray v. *Charleston*, 96 U. S. 432.
Murdock v. *City of Memphis*, 20 Wall. 509.

While it is not essential to confer jurisdiction that the record proper, should in express terms show that a Federal question was raised and decided in the State Court, yet the fact must exist; and it must be made to appear, either by the record, the opinion of the Court, certificate of the presiding Judge, or in some other authentic form, that a Federal question was necessarily involved in the decision. Ib.

In this case it neither appears from the record, nor from the opinion of the Court, nor from the certificate of the presiding Judge, nor in any other manner, that the decision of the State Court was based upon, or in any manner affected by, any law of the State passed subsequently to the making of the supposed

contract; or that any such claim was ever made in that Court by counsel on either side.

III.

The State Court correctly held that, under the Constitution of 1848, the General Assembly could not exempt from taxation the property of colleges not necessary for "school purposes."

The express mandate of the State Constitution was that "The General Assembly shall provide for levying a tax by valuation, *so that every person and corporation* shall pay a tax in proportion to the value of his or her property."

Constitution of Ill. of 1848, Art. IX, § 2.
Rev. Stat. of Ill. (of 1874) p. 52.

And all municipal taxes are required "to be uniform in respect to persons and property within the jurisdiction of the body imposing the same."

Ibid p. 53, Art. IX, § 5.

These provisions have ever been regarded by the Supreme Court of Illinois as limitations upon the power of the General Assembly; and standing by themselves, would have prohibited all exemptions.

O'Kane v. *Treat*, 25 Ill., 557, 561.
Trustees v. *McConnell*, 12 Ill., 138.
City of Chicago v *Larned*, 34 Ill., 203.
City of Ottawa v. *Spencer*, 40 Ill., 211.
The People v. *Barger*, 62 Ill., 452.

But to obviate this result, the framers of the Constitution introduced into the same article, a section defining what property the General Assembly might exempt from taxation, as follows:

"§ 3. The property of the State and counties, both real and personal, and such other property as the General Assembly may deem necessary for school, religious and charitable purposes, may be exempted from taxation."

Rev. Stat. of Ill. (of 1874) p. 52.

The General Assembly had no power to grant exemptions except so far as authorized by this section; and as to educational, religious and charitable corporations, the courts of the State have uniformly held that the power was confined to such property as was used directly for the purposes for which the corporations were created, and did not extend to property leased for other uses, or held for profit merely, although the rents and profits were applied to the proper purposes of the corporation.

N. W. University v. *The People*, 80 Ill., 333.

Baptist Theo. Union v. *The People*, (See MS. copy of opinion on file).

First M. E. Church v. *Chicago*, 26 Ill., 482.

Illinois Central R. R. Co. v. *Irwin*, 72 Ill., 452.

In these rulings the Supreme Court of Illinois has followed the general current of authority upon analogous questions.

Pierce v. *Inhabitants of Cambridge*, 2 Cushing, 611.

Cincinnati College v. *The State*, 19 Ohio, 110.

Washburne College v. *Comm'rs of Shawnee Co.*, 8 Kansas, 344–348.

Kendrick v. *Farquhar*, 8 Ohio, 197.

Orr v. *Baker*, 4 Ind., 86.

Trustees M. E. Church v. *Ellis*, 38 Ind. 3.
State v. *Newark*, 2 Dutcher, 519.
State v. *Flavel and Fredericks*, 4 Zab. 370.
State v. *Commr's Mansfield*, 3 Zab. 510.
Railroad v. *Berks Co.*, 6 Barr, 670.
Wyman v. *City of St. Louis*, 17 Mo. 335.
Proprietors of Meeting House in Lowell v. *City of Lowell*, 1 Met. 538.

While it is now authoritatively settled that it is within the competency of a State Legislature, possessing unrestrained legislative power, to enter into a valid contract exempting property from taxation, it is equally clear that the people of a State may, by constitutional provisions, limit the power of the Legislature in this regard.

The Constitution of 1848 did impose such limitations upon the General Assembly of Illinois.

ARGUMENT.

I.

THE STATE HAS PASSED NO SUBSEQUENT LAW REPEALING OR IMPAIRING ANY OF THE PROVISIONS OR OBLIGATIONS OF THE AMENDMENT TO THE CHARTER UNDER WHICH THE EXEMPTION FROM TAXATION IS CLAIMED.

1. It cannot be reasonably claimed that the new constitution of the State, adopted in 1870, impaired the obligation of any pre-existing contract. The first section of the Schedule to that constitution expressly declares—

"§ 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts of this State, individuals, or bodies corporate, shall continue to be as valid as if this constitution had not been adopted."

Rev. Stat. of Ill. (of 1874), p. 82.

The fourteenth section of Article II. of the same constitution also provides that—

"No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed."

Ib. p. 60.

2. The fourth section of the amendment to the charter of the plaintiff in error, passed in 1855, provides thus—

"That all property of whatever kind or description, belonging to, or owned by said corporation, shall be forever free from taxation for any and all purposes."

Printed Record, p. 15.

This provision was contained in a special act of the legislature of Illinois, approved February 14, 1855.

Laws of Ill. of 1855, p. 4, § 4.

No attempt has ever been made to repeal, amend or modify this special act by subsequent legislation. If it contained a contract of exemption, valid when the act was passed, the State has not by any subsequent law attempted to impair the obligation of that contract.

If, on the other hand, this clause was wholly or in part void at its inception, it is still void; not because of subsequent legislation, but by reason of its original vice.

3. The general revenue law of the State, in force in 1855, contained the following provisions, defining what property should be subject to taxation:

"All property, whether real or personal, in this State; all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing in this State, or used or controlled by persons residing in this State; the property of corporations now existing, or hereafter created, and the property of all banks or banking companies, now existing or hereafter created, and of all bankers and brokers, except such property as is hereinafter expressly exempted, shall be subject to taxation."

Session Laws of Ill. of 1853, p. 3, § 1.

Gross' Stat. of Ill. (Ed. of 1869) p. 580.

The third section of the same act designates what property shall be exempt from taxation, and contains, among others, the following provisions:

"All property described in this section to the extent herein limited, shall be exempt from taxation, that is to say:

1. All lands donated for school purposes, and not sold or leased. All public school houses, and houses used exclusively for public worship, the books and furniture therein, and the grounds attached to such building necessary for the proper occupancy, use and enjoyment of the same, and not leased or otherwise used with a view to profit. All colleges, academies, all endowments made for their support; all buildings connected with the same, and all lands connected with institutions of learning, not used with a view to profit. This provision shall not extend to leasehold estates of real property held under the authority of any college or university of learning."

Session Laws of Ill. of 1853, p. 5, § 3.
Gross' Stat. of Ill. (Ed. of 1869), p. 581.

In 1872 the general revenue law of the State was revised, and in the place of the foregoing, the following was substituted:

"That the property named in this section shall be assessed and taxed, except so much thereof as may be in this act exempted:

First. All real and personal property in this State.

Second. All moneys, credits, bonds or stocks and other investments, the shares of stock of incorporated companies and associations, and all other personal property, including property *in transitu* to or from this State, used, held, owned or controlled by persons residing in this State.

Third. The shares of capital stock of banks and banking companies doing business in this State.

Fourth. The capital stock of companies and associations incorporated under the laws of this State.

PROPERTY EXEMPT FROM TAXATION.

§ 2. All property described in this section, to the extent herein limited, shall be exempt from taxation, that is to say—

First. All lands donated by the United States for school purposes, not sold or leased. All public school houses. All property of institutions of learning, including the real estate on which the institutions are located, not leased by such institutions or otherwise used with a view to profit.

Second. All church property actually and exclusively used for public worship, when the land (to be of reasonable size for the location of the church building) is owned by the congregation.

Session Laws of Illinois of 1871–2, p. 1.

Rev. Stat. of Illinois of 1874. p. 857.

It will be observed that while there is a slight change in the phraseology, and a rearrangement of the various clauses or parts of these sections, there is no change in their substance or meaning, so far as relates to the property of colleges or institutions of learning.

The general revenue law of the State, both before and after the revision, only exempted such property from taxation when not used with a view to profit.

4. Assuming, however, for the purpose of the argument, that the exemptions contained in the revised revenue law were more restricted than those of the former general law upon the same subject, there is nothing in the language of the later enactment to indicate that it was the design of the legislature to repeal any particular exemptions which had enured to private corporations, by reason of anything contained in their special acts of incorporation or amendments thereto.

The last section of the revenue law of 1872, contains a long list of the titles of acts, which are expressly repealed; but none of the special acts relating to this corporation are thus mentioned.

Session Laws of Ill. of 1871–2, p. 69, § 294.

And as to the acts thus repealed, in order to preserve all existing rights, it was expressly provided that:

"The repeal of said acts and parts of acts shall not be construed to impair any right existing, or affect any proceeding pending, at the time this act shall take effect." Ibid p. 71.

Rev. Stat. of Ill. (of 1874) p. 907, § 204.

So, too, in the general repealing act embodied in the Revised Statutes of the State, of 1874, which was understood to embrace the titles of all the previous acts (880 in number) in the place of which those contained in that revision were substituted, it was, with studious care, provided that,

"The repeal of the acts and parts of acts mentioned in the preceding section, shall not affect suits pending or rights existing at the time this law takes effect, and as to all corporations, municipal or private, heretofore formed under any act of incorporation mentioned in the preceding section, such act of incorporation, and all amendments thereof, shall continue in force to the same extent and with like effect as if the same had not been repealed by this act, nor shall such repeal, as above mentioned, be taken, construed or held to avoid or impair any grant made or rights acquired, or causes of action now existing under any such act, or the amendments thereto, but as to all grants made or rights acquired, or causes of action now existing, said laws shall be continued in full force and effect."

Ibid pp. 1012–1046, § 2.

The same General Assembly enacted the following as a rule of construction:

"The provisions of any statute, so far as they are the same as those of any prior statute, shall be construed as a continuation of such prior provisions, and not as a new enactment."

Ibid p. 1012, § 2.

Conceding it to have been within the competency of the State Legislature to repeal or amend the special acts under which the Northwestern University was incorporated, this general revenue law of the State could not be fairly construed as having any such effect.

The rule is that a general statute, without negative words, will not repeal the particular provisions of a former one, unless the two enactments are irreconcilably inconsistent.

Sedgwick's Stat. and Const. Law (2d Ed.), p. 97.

This author says: "The reason and philosophy of the rule is, that when the mind of the legislator has been turned to the details of a subject, and he has acted upon it, a subsequent statute in general terms, or treating the subject in a general manner, and not expressly contradicting the original act, shall not be considered as intended to affect the more particular and positive previous provisions, unless it is absolutely necessary to give the later act such a construction, in order that its words shall have any meaning at all."

Ibid p. 98.

This rule is epitomized in the maxin, *Generalia specialibus non derogant*, and is fully recognized by the courts of Illinois.

For example: The special act incorporating the town of Ottawa, passed 1837, conferred upon it the power to license and regulate groceries within its limits, and the right to retain to its own use the money received for licenses.

The seventh section of "An Act regulating tavern and grocery licenses," passed in 1839, was as follows:

"The president and trustees of incorporated towns shall have the exclusive privilege of granting licenses to groceries within their incorporated limits, and all sums of money which may be received for license as aforesaid, shall be *paid into the county treasury.*"

It was held that this subsequent general law did not repeal or affect the particular provisions of the prior special act relating to the town of Ottawa, which gave to the town the right to retain to its own use the money derived from licenses, upon the ground that a subsequent law, which is general, does not abrogate a prior special act.

The Town of Ottawa v. *The County of LaSalle*, 12 Ill. 339.

This rule of construction has been constantly adhered to, and applied in the courts of this State.

Covington v. *East St. Louis*, 78 Ill. 549.
Board of Supervisors v. *Campbell*, 42 Ill. 490, 492.
Tyson v. *Posththwaite*, 13 Ill. 728.

So, in the State of Indiana, it was held that an act passed in 1852, which exempted farm lands included within the limits of a city from taxation for municipal purposes, was not repealed by an act, passed in 1857, which gave the common council power to collect an *ad valorem* tax "on *all* property within the city limits."

Blain v. *Bailey, Treasurer*, 25 Ind. 165.

The case last cited is parallel to the case at bar, and precisely in point in its various aspects. It appears that the general law of Indiana, of 1857, which was supposed to repeal the prior special provisions of the act of 1852, was a mere revision and

amendment of a former general law of that State upon the same subject; and that it contained a section expressly repealing several general laws, which would have been repealed by implication, but was silent in respect to the special provisions of the act of 1852, under which the exemption was claimed.

In view of this feature of the case, the Court say:

"Now we cannot suppose that the legislature, by re-enacting a provision in the same language which was employed in a repealed statute, intended to impart to it a wider scope or other meaning than that which the same words were previously intended to import, especially when the effect would be to accomplish what is not favored in law—the repeal of another statute by implication. It is more reasonable to hold that the words have been employed in the same sense in which they had been used in the act repealed. * * * * * *

"The position that it was not intended to repeal the act in question, is strongly confirmed by the fact that the act of 1857 expressly repeals several acts which would undoubtedly have been repealed by it by implication, but is entirely silent as to this act. Why was this? The Legislature must be presumed to have acted with deliberation, and with a full knowledge of all existing acts upon the same subject. Again, the 42d section of the act of 1857 is a general statute without negative words, while the exempting act of 1852 is particular. In such a case the rule is, that there is no repeal by implication unless it is absolutely necessary, in order that the later act shall have any meaning at all."

Ibid p. 167.

This reasoning is, in all respects, strictly applicable to the case at bar.

The same application of this maxim was made by the Supreme Court of New Jersey in a case where it appeared that the charter of a railroad company exempted from taxation the property of the company, but reserved to the State all right of alteration or repeal. It was held that this exemption was not repealed by a subsequent general law providing that "all lands within the State, whether owned by individuals or corporations, shall be liable to taxation, and that "all acts and parts of acts inconsistent with this act, are repealed." The Court says: "The words 'acts or parts of acts' in the supplement are not to be construed as embracing charters of private corporations, or as affecting privileges or immunities granted to such, even though they may be repealable. The reasonable inference always is, that when the Legislature intends to take away these, they will do it in express terms; and *e converso*, when they do not do it in express terms, they do not intend to do it."

State v. *Minton*, 3 Zab. 529.

Upon these familiar rules of construction, so repeatedly affirmed and enforced by the Supreme Court of Illinois, it is unreasonable to impute to the General Assembly of that State an intention to amend or repeal any of the provisions contained in the special acts relating to the Northwestern University, by the revision of the general revenue law of the State in 1872.

It is manifest from the authorities cited above, that the courts of Illinois would not so construe the revision, nor can it be given

any such effect, without an utter disregard of the canons of construction universally recognized.

The opinion of the Supreme Court of Illinois, contained in this record, shows that in that Court, no reliance was placed upon any subsequent legislation, as affecting the right of the corporation to the exemption claimed.

The Court says:

"The question we propose to consider is, conceding that the clause we have quoted from the appellant's charter is, as it seems to be, broad enough to comprehend these lands and town lots, was it competent for the General Assembly, under the constitution of 1848, which was in force at the date of that enactment, to grant an exemption so broad and sweeping in its character?"

Printed Record, p. 47.

This question the Court answered in the negative, and thereupon affirmed the judgment of the County Court.

5. Counsel for plaintiff in error, in their brief filed on the motion to dismiss, pointed out sections 182 to 191 inclusive, of the general revenue law of the State, passed in 1872, as the portions of that law which are said to have been in conflict with its special charter, and thus violative of the obligations of its contract.

Those sections are too lengthy to be quoted here with advantage, but may be found in

Rev. Stat. of Ill. of 1874, pp. 887–890.

An examination of their provisions will show that they contain nothing having any special application to this corporation, but comprise general provisions respecting the duty of county collectors in making application to the County Court for judgment against real estate upon which taxes are delinquent and unpaid, and regulate the mode of procedure.

They declare no property subject to taxation which was exempted therefrom by special acts.

The former revenue law, which was superseded by the revision of 1872, contained substantially the same provisions upon that subject.

Session Laws of 1853, pp. 74–79, §§ 26–36.
Gross' Stat. of Ill. (Ed. of '69) pp. 602, 605, §§ 157--166.

So far as this claim of exemption extends, there was no change in the law, by the revision of 1872.

Under the law as it existed before as well as after the revision of 1872, the same proceedings could be had to collect taxes imposed upon the property of the corporation now sought to be taxed, so far as it could show no valid or constitutional exemption.

Neither the prior statute, nor the revised revenue law, assumes to interfere with anything in the charter, or amendment thereto, conferring exemption. Whether this special act, at the time of its passage, constituted a valid contract of exemption, or was void and of no effect, it has ever since remained unassailed by any subsequent legislation of the State.

If the clause of the special act purporting to exempt this property, was originally unconstitutional and void, there has never been anything to prevent the application of the general provisions of the State revenue law to this, as well as to all other taxable property; and in this sense alone can it be truly said that the State asserts its rights under a statute passed subsequently to the passage of the special act of February 14, 1855, under which the exemption is claimed.

The fact that the State has continued in force a general revenue law, under which the property of corporations can be lawfully taxed, so far as they can establish no valid claim of exemption, can not justly be regarded as an attempt, on the part of the State, by subsequent legislation, to amend or repeal special acts conferring exemptions.

For illustration: Assuming, for the present purpose, that the State had, in some form, reserved the right to amend or repeal the special act under which the exemption is claimed, so that the power of the Legislature to repeal the same was unquestionable: Would this Court hold that the general revenue law of the State, conceived in general language as it is, in fact, repealed this exemption contained in the special act? If not, how can it be held that the passage of this same revision of the revenue law was an attempt, on the part of the Legislature, to repeal the clause of the special act purporting to confer the exemption?

It must be confessed that the proceedings to enforce the collection of all delinquent taxes in Illinois, are now carried on under statutes passed in 1872, and subsequent years; but it is

not true that any of such statutes assume to repeal, amend or modify the provisions of any special act purporting to exempt the property of any private corporation from taxation. The Legislature of the State has left all such prior special acts as it found them.

It is true, the laws of the State prescribing the *remedy*, or proceeding to enforce the collection of taxes from property subject to taxation, have been amended from time to time.

But the enactment of subsequent laws affecting the mere remedy for the enforcement of pre-existing rights, under contracts, are not regarded as laws impairing the obligation of such contracts, so long as an adequate remedy for the enforcement of all substantial rights is provided. It has always been held by this Court that the States may change the remedy, provided no substantial right secured by the contract is impaired.

Bank v. *Dalton*, 9 How. 522.
Sampeyrac v. *United States*, 7 Pet. 222.

It has never been understood that such change in the remedy, not affecting the obligation of the contract, would confer jurisdiction upon this Court under the 25th section of the judiciary act, or section 709 of the Revised Statutes now in force.

We submit, therefore, that we are fully warranted in the statement, that the State of Illinois has never passed any law purporting to repeal, amend or modify the section of the special act under which this exemption is claimed, nor which, by any fair rule of interpretation, could be construed as impairing or in anywise affecting the obligation of the supposed contract.

Counsel for plaintiff in error, in their brief, seem to assume that our proposition is, that States are only prohibited from passing special laws impairing the obligation of contracts, and that they may pass general laws having that effect, with impunity. This is a mere gratuitous assumption.

We claim that the State has neither passed a general or special law which can be fairly construed as having, or intended to have, that effect.

6. The cases cited by counsel for plaintiff in error, in the support of the jurisdiction of this Court, are wholly inapplicable to the case presented by this record.

It will appear, from an examination of those cases, that the States concerned had each attempted, by the adoption of a new constitution, or the passage of subsequent laws, or both, to repeal the exemption, and subject property to taxation which had been exempted therefrom by the charter of the corporation resisting the tax.

Thus, in *Bank* v. *Skelly*, 1 Black 436, the State of Ohio had amended its constitution, and also passed a subsequent law, requiring the bank to be taxed in a different and more onerous manner than that required by its charter. Ib. pp. 445, 450.

So, also, as to *State Bank of Ohio* v. *Knoop*, 16 How. 369, 377.

It appears from the statement of the case in *Home of the Friendless* v. *Rouse*, 8 Wall. 432, that the Legislature of Missouri, by a statute enacted subsequent to the passage of the

charter containing the exemption, "did impose a tax upon the real estate of the Home."

The case of *Washington University* v. *Rouse*, 8 Wall. 439, arose in the same State, and rested upon similar facts.

In the case of *Willmington Railroad* v. *Reid*, 13 Wall. 264, it appears that the Legislature of North Carolina had passed a subsequent law, imposing upon the corporation the tax sought to be enjoined.

In the case of *Pacific Railroad Company* v. *McGuire*, 20 Wall. 36, the State of Missouri had adopted an ordinance, as a part of the new Constitution of the State, levying a tax on the gross receipts of the company in violation of a provision of the charter of the company, previously granted. Ib. 39.

The case of *Chicago* v. *Sheldon*, 9 Wall. 50, was brought to this court, on a writ of error to the Federal Circuit Court, and for this reason is not an authority upon the question here presented.

So, as to *Humphrey* v. *Pegues*, 16 Wall. 224.

II.

THIS COURT WILL NOT ENTERTAIN JURISDICTION OF A CASE FROM A STATE COURT MERELY BECAUSE THE JUDGMENT OF THAT COURT IMPAIRS OR FAILS TO GIVE EFFECT TO A CONTRACT.

In order to confer jurisdiction upon that ground, there must have been some law of the State, subsequently enacted, which impaired the obligation of the contract; and the validity of such

law must have been sustained in the State Court against this constitutional objection.

Railroad Company v. *Rock*, 4 Wall. 177.
Railroad Company v. *McClure*, 10 Wall, 511, 515.
Knox v. *Exchange Bank*, 12 Wall. 379, 383.

The entire record shows that the judgment of the State Court was predicated upon the ground that the section of the amendment to the charter purporting to exempt the property in question from taxation, was invalid by reason of its repugnance to the provisions of the State constitution, in force when this amendatory act was passed.

In the case of *Railroad Company* v. *Rock*, *supra*, this Court said:

"In the argument of counsel before us, no attempt is made to show that any provision of the constitution of the State of Iowa conflicts in any way with the constitution of the United States. The whole case, in the language of the brief, is put upon the ground that the Supreme Court of Iowa has made a decision in this case which impairs the obligation of contracts, and the argument goes upon the fundamental error that this Court can, as an appellate tribunal, reverse the decision of a State Court, because that Court may hold a contract to be void, which this Court might hold to be valid. If this were the law, every case of a contract held by the State Court not to be binding, for any cause whatever, can be brought to this Court for review, and we should thus become the court of final resort in all cases of contracts where the decisions of State Courts were against the validity of the contracts set up in those courts.

"This, obviously, was not the purpose of the Judiciary Act. It must be the constitution, or some law of the State, which impairs the obligation of the contract, or which is otherwise in conflict with the constitution of the United States; and the decision of the State Court must sustain the law or constitution of the State in the matter in which the conflict is supposed to exist, or the case for this Court does not arise." Ib. 181.

In *Knox* v. *Exchange Bank*, 12 Wall. 383, the same principles were reaffirmed, thus:

"But we are not authorized by the judiciary act to review the judgments of the State Courts, because their judgments refuse to give effect to contracts, or because those judgments, in their effect, impair the obligation of contracts. If we did, every case decided in a State Court could be brought here, where the party setting up a contract alleged that the Court had taken a different view of its obligation to that which he held. As this Court said in *Railroad Company* v. *Rock*, 4 Wall. 177, it must be the constitution or statute of the State which impairs the obligation of a contract, or the case does not come within our jurisdiction. What statute of Virginia is supposed to affect unfavorably the contract under which these notes were issued? It is rather insinuated than fully declared, that the Court gave such effect to the act of February, 1866, under which the bank made its assignment. But nothing in the record shows that the Court based its judgment on any such proposition. Nor is there anything in that statute which by any possibility can be said to impair the force given to those notes by the charter of the bank. The latter statute merely authorized, in general

terms, the insolvent banks to make assignments of all their effects for the benefit of all their creditors."

The reasoning of this opinion applies with equal force to the case presented by this record.

In the case of *Railroad Company* v. *McClure*, 10 Wall. 511, it appears that Washington County, Iowa, in pursuance of an act of the Legislature of that State, issued its bonds in aid of certain railroads in 1858, at which time the previous decisions of the State Supreme Court had sustained the constitutionality of laws authorizing counties to issue such bonds; but subsequently the State Court overruled its former decisions on that question, and held such bonds void, upon the ground that they were issued in violation of the State constitution.

The case was brought to this Court under § 25 of the Judiciary Act, and here dismissed for want of jurisdiction. The Court say:

"The question of the validity of the bonds is not one of Federal jurisdiction. The constitution of the United States declares that no State shall pass a law impairing the obligation of contracts. The constitution of a State is undoubtedly a law within the meaning of this prohibition. A State can no more do what is forbidden by one than by the other. There is the same impediment in the way of both. But the State has passed no law upon the subject, and the constitution of the State which, as construed by the Supreme Court of the State, has worked the result complained of, was in force when the bonds were issued. The 25th section of the Judiciary Act of 1789, specifies the

questions of which we can take cognizance in this class of cases, and expressly excludes all others from our consideration. It is clear that the question before us is not within the affirmative category. If the case had been brought up from the Circuit Court under the 22d section of the Judiciary Act, this question, and all others arising on the record, would have been open for examination. The 25th section is more limited in its operation. The case will be dismissed for want of jurisdiction, and remanded to the Court whence it came." Ib. 515.

As to the question here presented, there is no essential difference between § 25 of the Judiciary Act of 1789, and § 709 of the Revised Statutes of the United States, now in force upon the same subject.

Moore v. *Mississippi*, 21 Wall. 636.

Smith v. *Adsit*, 23 Wall. 368.

It is manifest that this writ of error ought to be dismissed for want of jurisdiction, unless it can be shown that the State has passed some subsequent law, not merely regulating the mode of procedure in the assessment and collection of taxes generally, but which evinces a design, or assumes in some manner, to amend, modify or repeal the special act relating to this corporation, constituting the supposed contract of exemption; and thus impairs its obligation.

If such a law has been passed by the State, let those who affirm its existence point it out, and the question of jurisdiction will be conceded.

Unless this can be done, the essential fact is wanting to confer upon this Court rightful authority to review the judgment of

the Supreme Court of Illinois, upon the question as to whether the special act under which the exemption is claimed, is in conflict with the State Constitution, in force when this act was passed.

In order that there may be no longer any pretext for irrelevant discussion upon this point, we expressly concede that if the State has passed a subsequent law impairing the obligation of the supposed contract, and if the State Court has, either expressly or in effect, sustained that law by its judgment in this case, then the jurisdiction of the Supreme Court of the United States is rightfully invoked; and in the exercise of its conceded power in cases of this character, this Court is not concluded by the decision of the Supreme Court of the State, but may review the judgment of that Court upon that question.

The true test of jurisdiction is: Has the State passed a subsequent law impairing the obligation of the alleged contract?

Unless this question can be answered in the affirmative, jurisdiction fails, and no authority exists to determine any other question which might otherwise arise upon the record.

The prohibition of the Federal constitution is not against State legislation regulating the manner of enforcing rights arising out of contracts, or which exist independently of contracts. The enactment of laws impairing the obligation of contracts is what is forbidden.

Unless the subsequent law has this effect, it is free from this constitutional objection.

III.

THE STATE COURT CORRECTLY HELD THAT UNDER THE CONSTITUTION OF 1848, THE GENERAL ASSEMBLY COULD NOT EXEMPT FROM TAXATION THE PROPERTY OF COLLEGES OR INSTITUTIONS OF LEARNING NOT NECESSARY FOR "SCHOOL PURPOSES."

1. The general rule is now established that a State Legislature, acting under an unqualified grant of legislative power, may enter into a valid contract with private corporations, exempting their property from taxation, which cannot be withdrawn by subsequent legislation; but the constitution of 1848 limited the authority of the General Assembly of Illinois in that particular.

The following sections of the State Constitution were in force in 1855, when the act was passed under which this exemption is claimed:

"§ 2. The General Assembly shall provide for levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his or her property. * * *

§ 3. The property of the State and counties, both real and personal, and such other property as the General Assembly may deem necessary for *school*, religious and charitable *purposes*, may be exempted from taxation.

§ 5. The corporate authorities of counties, townships, school districts, cities, towns and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same; and the General Assembly shall require that all the property within the limits of municipal corporations, belonging to individuals, shall be taxed for the payment of debts contracted under authority of law."

Const. of Illinois of 1848, Art. IX.

Rev. Stat. of Illinois of 1874, p. 52.

The evident design of these provisions was to deprive the Legislature of all power to exempt any class of property from bearing its equal burden of taxation, except so far as reserved by section three, above quoted.

In the case of *Trustees, etc., of Jacksonville* v. *McConnel*, 12 Ill 138, which arose immediately after the constitution of 1848 took effect, and was decided in 1850, the Supreme Court of the State so held, and in its opinion, delivered by Trumbull J., said: "The constitution of the State expressly declares that the mode of levying a tax shall be by valuation, so that every person or corporation shall pay a tax in proportion to the value of his or her property. Under this provision the Legislature would have no power to exempt from taxation one species of personal property, while it collected a tax from another, within the same jurisdiction, and it is never to be presumed that the Legislature intended to pass a law which should be contrary to the constitution, either in its letter or spirit." Ib. p. 141.

The same principles were adhered to in the case of *O'Kane* v. *Treat*, 25 Ill. 561, where the Court held: "By our constitution, the principle of equality, based upon valuation, is adopted as the rule governing the levy and collection of taxes. Article 9, section 2." After citing section 5 of Article 9, the Court say: "That the city of LaSalle is within and as much a part of the town of LaSalle as the latter is a part of the county, will not be controverted. The city, although a municipal corporation, is undeniably a part of the municipal corporation of the town of LaSalle, and is within its jurisdiction. That a road tax imposed by the town, under the law authorizing it, is a tax for corporate

purposes, is equally true. The construction and keeping in repair of the roads of the town is one of the objects of the creation of these bodies, and the tax cannot be justiy said to be for any other than a corporate purpose. It then follows that if it was the design of the Legislature to exempt the inhabitants of the city from this common burthen, by this enactment, it was repugnant to the constitution, and is inoperative and void."

And this has ever since remained the established rule in that Court.

Primm v. *City of Belleville*, 59 Ill. 142
Harwood v. *St. Clair Drainage Co.*, 51 Ill. 130.
Lee v. *Ruggles*, 62 Ill. 427.

There is a class of cases in which the Supreme Court of the State has held that it was competent for the General Assembly to commute taxes; that is, to authorize the tax to be imposed in some other form than a direct assessment upon the property in proportion to value, as in the case of

Illinois Central Railroad Co. v. *McLean Co.*, 17 Ill. 291.

Upon the same principle of commutation, it was held that the Legislature had power to impose upon a city the exclusive burden of maintaining all paupers within its limits, and the expense of prosecuting city criminals, which would otherwise be a county charge, and in consideration thereof, exempt all property within the city limits from taxation for county purposes.

Board of Supervisors v. *Campbell*, 42 Ill. 490.
Hunsaker v. *Wright*, 30 Ill. 149.

In the case last cited the Court reviews its previous decisions,

and while the power to commute a tax is sustained, the principle is reaffirmed that the Legislature has no power, unconditionally, to exempt property from the payment of taxes.

In a late case, referring to *Illinois Central Railroad Company* v. *McLean County*, *supra*, the Court say: "That case holds that it is within the constitutional power of the Legislature to exempt property from taxation, or to commute the general rate for a fixed sum, and that the provision in the charter of the Illinois Central Railroad Company, exempting its property from taxation upon the payment of a certain portion of its earnings, was constitutional. The case proceeds on the principle that the proportion of the earnings of the company to be paid to the State is equal to the burden of the State tax imposed upon the citizens and other corporations in the State, which is thought to answer the requirements of the constitution, 'that every person or corporation shall pay a tax in proportion to his or her property.' The case can be supported on no other principle."

People ex rel. v. *Barger*, 62 Ill. 456.

The power of the General Assembly to exempt the property of this College from taxation cannot be maintained, unless the case falls within the scope of section 3, Article IX, of the State constitution (ante p. 36.)

It is true that a State constitution is regarded as a limitation upon, rather than as a grant of legislative power, and the Supreme Court of Illinois so construe the constitution of that State. But we find, in that constitution, provisions which imperatively require taxes to be levied "by valuation, so that every person

gious or charitable purposes, by no means necesarily mean the same thing. The ownership may extend to all kinds of property authorized by the charter, whether it is such as is actually used in connection with the purposes of the corporation or otherwise; but property for the purposes of the incorporation must be such as is to be used in connection with those purposes. An accurate description of the property, the tax upon which is in controversy, would seem to be the 'property used for profit for the benefit of the University'."

N. W. University v. *The People*, 80 Ill. 335.

This was not, as seems to be assumed, an innovation in the rulings of that Court.

In the case of *People ex rel.* v. *Barger*, 62 Ill. 457, an attempt was made to extend the terms "charitable purposes" to any purpose for which the Legislature might think proper to make exemptions. The Court disposed of this question in this plain and sensible manner:

"Unless the exemption sought to be created in favor of the inhabitants of Shawneetown, by the first section of their charter, is authorized by the third section of the ninth article of the constitution of 1848, it is clearly in conflict with that instrument. That section provides that the property of the State and counties, both real and personal, and such other property as the General Assembly shall deem necessary for school, religious and charitable purposes, may be exempt from taxation. While it is true that the words 'charitable purposes,' as used in the constitution, may have a very broad and comprehensive meaning, and may include provisions for all classes of citizens, such

as founding hospitals for the insane, the deaf and dumb, and the blind, and other kindred humane institutions, we do not think that they were intended to have as broad a meaning as that insisted upon by the counsel for the respondent. We are asked to extend the meaning of the words 'charitable purposes' so as to make them include the building and construction of a levee for the protection of the private property of the citizen. This cannot be done."

The stipulation, or agreed statement of facts, upon which the cause was heard in the County Court, shows that all the lots and lands taxed "are leased by said University to different parties for a longer or shorter period, and that all of said lands or lots are held for sale or lease for the use and support of said institution and the objects contemplated in said charter," and that "no part of the campus, or lands occupied by buildings or other direct appliances of education, is taxed or included in the lands and lots on which judgment is as aforesaid asked." (Ante p. 3.

Record p. 11.

It appears from the record that the property sought to be taxed comprises a list of more than 400 town or city lots.

It thus appears that the property used for school purposes was not taxed, and that the property taxed was that leased to tenants for other than school purposes. Under the constitution it was only such property as the General Assembly might deem necessary for school purposes which it had power to exempt, as to this class of corporations.

We concede that the Legislature had power to determine

what quantity of property was necessary for school purposes; but insist that it had no power to exempt the property of colleges or institutions of learning held and used for any other than school or educational purposes.

Whether the corporation should be allowed to have exempt from taxation one acre, or one hundred acres, for school purposes, rested within the discretion of the Legislature; but that body had no power or discretion to exercise upon the question as to whether the corporation might hold property exempt from taxation for other than school, charitable or religious purposes. The exercise of such power had been prohibited by the constitution of the State.

The proposition that property used for the purposes of trade or manufacture, is used for school purposes, involves a self-evident contradiction. Nor is the case varied by the fact that the rents or income derived from the use of the property for purposes of trade, are applied to the purposes of education.

The State is not seeking to impose a tax upon such rents or income. The property taxed is the lands and lots leased to tenants, and used for other than school purposes. It can not well be denied that the land and town lots leased to the tenants constitute one class of property, while the money accruing therefrom as rents, constitutes another separate and distinct property. If so, one may be used for school purposes, while the other may be used for a purpose wholly foreign thereto.

Consequently power to exempt the rents used for school pur-

poses from taxation, does not carry with it power to exempt the property leased to the tenants and used for other purposes.

This obvious distinction was recognized by this Court in a series of cases relating to the taxation of National Banks.

It is held, that while the capital or property owned by the bank as a corporation, consisting of United States bonds, is wholly exempt from taxation, the shareholder may be taxed upon his shares of stock, which "entitle him to participate in the net profits earned by the bank."

VanAllen v. *The Assessors*, 3 Wall. 573—584.
People v. *Commissioners*, 4 Wall. 244—258.

This interest of the shareholders is held to be a distinct, independent interest and property "from the capital of the bank." Ib.

So, the Supreme Court of Illinois, while recognizing the validity of the exemption of the property of this University from taxation, so far as relates to property used for school or educational purposes, hold that "it was not competent for the General Assembly to exempt from taxation property owned by educational, religious or charitable corporations which was not itself used directly in aid of the purposes for which the corporations were created, but which was held for profit merely, although the profits were to be devoted to the proper purposes of the corporation."

Northwestern University v *The People*, 80 Ill. 333-338.

This conclusion, as we have already shown, was a necessary

deduction from the former rulings of that Court upon kindred questions. It is fully sustained by reason, and is supported by the decisions of other Courts upon analogous questions, many of which are commented upon in the opinion of the Court in the case last cited.

My associate, Mr. Ide, has reviewed these authorities at length, in his brief filed in this case (pp. 36-40), and they are referred to by their titles in the foregoing brief (ante p. 14).

When we apply to the case principles of construction repeatedly declared in this Court, there can be no question that the Supreme Court of the State reached the proper conclusion.

"The taxing power is vital to the functions of government. It helps to support the social compact and give it efficacy. It reaches the interest of every member of the community. It may be restrained by contract in special cases for the public good, where such contracts are not forbidden, but the contract must be shown to exist. There is no presumption in its favor. Every reasonable doubt should be resolved against it. Where it exists it is to be rigidly scrutinized, and never be permitted to extend, either in scope or duration, beyond what the terms of the concession clearly require. It is in derogation of public right and narrows a trust created for the good of all."

Tucker v. *Ferguson*, 22 Wall. 575.
The Delaware Railroad Tax Case, 18 Wall. 206-228.
Providence Bank v. *Billings*, 4 Pet. 561.

If this is a proper principle to govern in the construction of a

statute purporting to grant an exemption, it should not be lost sight of in determining the meaning of a constitutional provision conferring power upon the Legislature of a State to grant exemption from taxation in exceptional cases.

As we have shown, no general power to exempt property from taxation existed under the constitution of Illinois in force in 1855.

The Legislature of the State could make no valid contract of exemption, except so far as expressly authorized in the third section of Article nine, before cited. If the power can not be there found, it does not exist.

Counsel for plaintiff in error have filed with their brief a lengthy schedule of special acts of the Legislature of Illinois, in which it is claimed similar exemptions have been conferred upon other corporations of like character.

That such a list may be compiled, will surprise no one acquainted with the extravagant abuses in the way of special legislation, practiced under the former constitution of that State.

The General Assembly of 1857, in a session of about 45 days, produced a volume of 1451 pages of special acts, in addition to the volume of Public Laws of more than 300 pages. In 1867, in a session of less than two months' duration, there were three large volumes of special acts thus produced. In 1869 the maximum quantity of this kind of legislation was achieved, filling four goodly volumes.

This resulted in the adoption of a new constitution by the people of the State in 1870, absolutely prohibiting this class of special legislation.

Under the old constitution, bills were passed containing almost any provision that interested parties saw fit to write therein. They were voted upon in "omnibuses," as they were called, containing large packages of bills, the titles only being read.

The fact, therefore, that the researches of counsel have been rewarded with the discovery of various other acts, obnoxious to the same constitutional objection, as that found by the Supreme Court of the State to exist to the special act in question, should have little or no weight as against the correctness of the conclusion of that Court.

It is, perhaps, worthy of note that, numerous as are these special acts cited by counsel, they fail to cite us to any case where the Supreme Court of the State ever sustained the validity of such legislation.

The decisions of that Court upon this question, have been uniform and consistent.

In the year 1850, as soon as a case could arise under the constitution of 1848, and, in the ordinary course of procedure, reach the Supreme Court for decision, it was held that, under that constitution, the Legislature had no power to exempt one species of personal property from taxation, while it collected a tax from another within the same jurisdiction.

Trustees, etc. v. *McConnel*, 12 Ill. 138.

The Court thus enforced the mandate of the constitution that in the matter of taxation the General Assembly must so provide "that every person and corporation shall pay a tax in proportion to the value of his or her property." and thereby excluded all power of exemption, except so far as expressly authorized by other sections.

It thus appears that whatever may have been the occasional practice of the Legislature, the contemporaneous exposition of the Court is consistent with its present ruling.

This was a warning to all who might thereafter seek to secure from the Legislature special acts conferring exemptions, that such acts were void and worthless, except so far as authorized by the terms of section 3, Article 9, of the constitution of 1848, before cited. (Ante p. 36).

When the plaintiff in error secured the amendment to its charter in 1855, it was not only bound to take notice of the plain requirements of the State constitution then in force, but also of this judical exposition of the powers of the Legislature under it. If it attempted to secure the exemption of property to be used for other than "school, religious or charitable purposes," it attempted that which was forbidden by the State constitution, and now has no just right to complain that the Court so hold.

If the Court should hold against us upon the question of jurisdiction, and should find that in this case it has the right to review the judgment of the Supreme Court of Illinois upon the proper construction of the State constitution, then we submit that where, as here, there appears to have been a

continuous and uniform line of decisions in the State Court, commencing at a time long anterior to the date of the alleged contract, holding that such legislation is repugnant to the constitution of the State and void, the same ought to have great, if not controlling influence in this Court, in determining the true meaning of the State constitution, and the power of the General Assembly to grant the exemption now sought to be enforced as a contract.

JAMES K. EDSALL,

Attorney-General of Illinois,

For Defendants in Error.

IN THE

Supreme Court of the United States.

October Term, A. D. 1878.

THE NORTHWESTERN UNIVERSITY,
PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS, Ex Rel. HENRY B. MILLER, County Treasurer of Cook County, Illinois,
DEFENDANTS IN ERROR.

STATEMENT AND BRIEF FOR DEFENDANTS IN ERROR.

GEORGE O. IDE,
FOR DEFENDANTS IN ERROR.

Chicago:
BULLETIN PRINTING COMPANY, 113 MADISON STREET.
1878.

United States Supreme Court.

OCTOBER TERM, A. D. 1878.

THE NORTHWESTERN UNIVERSITY,
Plaintiff in Error,
v.
THE PEOPLE OF THE STATE OF ILLINOIS, EX REL. HENRY B. MILLER, COUNTY TREASURER OF COOK COUNTY, ILLINOIS,
Defendants in Error.

No. 184.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

STATEMENT AND BRIEF FOR DEFENDANTS IN ERROR.

STATEMENT.

May it please the Court:

The only Federal question, claimed to be presented by this record and sought to be re-examined here, is whether or not the plaintiff in error ever had any valid contract with the State of Illinois, exempting from taxation those of its lands which are not actually used for educational purposes; and whether or not under its charter this class of its property has

such an immunity from taxation as is protected by the clause of the Federal constitution concerning the obligation of contracts.

A statement of the facts, contained in the record, will show how the question is sought to be raised by the plaintiff in error.

At the June term, 1875, of the County court of Cook county, application was made to that court, in the manner prescribed by the revenue law of the State, by the county collector for a judgment against lands in that county, delinquent for the taxes levied and assessed upon them for the year 1874, for State, county, town, school and municipal corporation purposes. (Printed record, p. 2.) In the list of delinquent lands were embraced some 427 distinct parcels of land belonging to the Northwestern University. So much of this delinquent list as shows the number, kind, and location of the real estate owned by the plaintiff in error, is set forth on page 18 to page 34 of the printed record.

While this application was pending, the University appeared in the County court and filed its objections to judgment being entered against these lands and to their being sold for delinquent taxes. (Record p. 2, folios 5 to 21). One of these objections to the entry of the judgment alleged, that by an act of the legislature of Illinois, approved January 25th, 1851, the University was created a corporation, and that by an amendment to its charter, of the date of February 14th, 1855, all property of whatever kind or description belonging to or owned by the plaintiff in error was declared to be forever free from taxation for any and all purposes whatever.

(P. Rec. p. 7, folio 19.) Another objection alleged, that by the terms of the charter of the University and the said amendment thereto, the State of Illinois contracted with the corporation that from and after the passage of the amendment all the property of the corporation of whatever kind and description should be forever free from taxation for any and all purposes; that the charter and the amendment had been accepted by the corporation and were still in force, and that the taxes complained of had been levied without its assent and in violation of said act of incorporation and the amendment. (P. Rec. p. 7, folio 20.)

A trial of the case was had before the County court on July 1, 1875, in which it was admitted by the counsel for the University that the proper notice and return of the delinquent list had been made as required by law (P. Rec. p. 11 folio 29); and in defense to the application for judgment the following documentary testimony was given in evidence:

I.—A stipulation as to certain facts in the case as follows (P. Rec. p. 11 folio 30):

1. That at the time and before the taxes in question were assessed and levied, the lands, lots and blocks enumerated in the objections belonged to and still belong to the University. (Folio 30.)

2. That all the lots and lands, mentioned in the objections, are leased by the University to different parties for a longer or shorter period, and that all of said lands and lots are held for sale or lease, for the use and support of the institution and the objects contemplated in its charter. (P. Rec. p. 11, folio 31.)

3. And that no part of the campus, or lands, occupied by buildings or other direct appliances of education, is taxed or included in the lands and lots on which the judgment for taxes is asked. (Rec. p. 11–12, folio 31.)

4. That since the passage of the charter of the corporation and the amendment, the corporation has expended in the erection and purchase of buildings, apparatus, and other facilities and appliances for education, and for the promotion of the objects stated in the charter, over $200,000, realized from donations and the sale of lots and lands, and has built up a University with several departments of learning, in which more than five hundred students are being taught the higher branches of learning. (P. Rec. p. 11, folio 31.)

II.—The charter of the University, being an act of the legislature of Illinois, approved January 28, 1851. (P. Rec. p. 12, folio 32.)

By the first section of this act, certain individuals therein named are constituted a body corporate under the name of "Trustees of the Northwestern University, with succession, and with power to acquire, hold and convey real and personal property, and to make by-laws for the government of the institution," etc.

Section two regulates the term of office of the trustees, and requires the board of trustees to hold the property of the institution for the purposes of education and not as stock for their individual benefit.

Section three declares the institution to be under the control and patronage of the Methodist Episcopal Church.

Section four locates the institution in or near Chicago, and gives the corporators power in their corporate name to take property by gift, grant, conveyance, or devise, and to grant, sell, devise, let, place out at interest, or otherwise dispose of the same for the use of the institution, and to apply the funds collected or the proceeds of the property to erecting buildings, supporting the teachers, officers and servants of the institution and procuring books and apparatus. It restricts the amount of land the corporation can hold to two thousand acres, unless it receives the same by gift, grant or devise.

The remaining sections relate to minor matters and are only important as determining the corporation to be one of a private character, organized for educational purposes only.

III.—An amendment to the act of incorporation, approved January 28, 1851. (P. Rec. p. 14, folio 40.)

Section 1 simply adds to the board of trustees certain persons, to be selected by an Indiana Conference of the Methodist Church.

Section 2 contains a police regulation of the State, imposing a penalty for selling liquors within four miles of the institution.

Section 3 authorizes the corporation to take, use, lease and dispose of property, coming to the corporation charged with any trust, and to execute the trusts confided to it.

Section 4 contains the exemption from taxation relied upon: "That all property, of whatever kind or description, belonging to or owned by the corporation, shall be forever free from taxation."

Section 5 declares the act to be public, and that it shall take effect from its passage.

IV.—Other amendments concerning the election and terms of office of trustees, who are selected by the annual conferences of the Methodist Episcopal Church. (P. Rec. p. 15, folio 42.)

V.—Another amendment, in force February 19, 1867, changing the name of the corporation to "Northwestern University," and authorizing it by the latter name to exercise the powers and immunities conferred on it, and making other changes in the number of the Board of Trustees, and requiring a majority of the whole board to be members of the Methodist Episcopal Church. (P. Rec. 16, folio 44.)

The objections were overruled, (P. Rec. p. 16, folio 45) and on July 14th, 1875, judgment was entered for the delinquent taxes against the lands of the University, described in the printed record, beginning on page 18. (P. Rec. p. 34, folio 74.) An appeal from this judgment to the Supreme court of the State having been prayed and perfected by the University (P. Rec. pp. 36, 37, 44, folios 78, 83, 103), the appeal was heard and tried by the State Supreme court at its September term, 1875, and taken under advisement. (P. Rec. p. 46, folio 110.) The only errors assigned in the Supreme court were, that the County court erred in overruling the objections and in rendering judgment against the appellant's lands; and that the judgment was contrary to law. (P. Rec. p. 46, folio 109.) On June 30, 1876, the Supreme court affirmed the judgment of the County court. (P. Rec. p. 50, folio 121.)

The opinion filed in the cause reasserted and affirmed the decision, given in a previous, similar case, which is not now before this court, the State court saying; "this case is in all respects, the same as docket No. 261, at the present term, between the same parties, and for the reason there given, the judgment is affirmed." (P. Rec. p. 47, folio 111.)

The previous decision in the other case, thus referred to, is set out at large, beginning on page 47 of the printed record in this court, and is reported in 80th Illinois Reports p. 333.

The conclusion of the court was: "that it was not competent for the General Assembly to exempt from taxation property owned by educational, religious or charitable corporations, which was not itself used directly in aid of the purposes for which the corporations were created, but which was held for profit merely, although the profits were to be devoted to the proper purposes of the corporation. To the extent, therefore, that the 4th section of the amendment to appellant's charter, approved February 14, 1855, assumes to do so, it is to be considered void and of no effect, but no further." (P. Rec. p. 50, folio 120.)

It is now here assigned for error, in substance, that the Supreme court of Illinois erred in adjudging that no valid contract existed between the State and the plaintiff in error, of such character that the constitution of the United States protected the plaintiff in error from the taxation complained of; also in adjudging that the provision granting the exemption was in conflict with the constitution of the State; and

also in adjudging that the lands in question were subject to taxation under the constitution and laws of Illinois. (P. Rec. p. 53, folios 128, 129.)

BRIEF.

I.

There is no Federal question, properly presented in this record, and hence there is no jurisdiction here to re-examine the case.

If there is any Federal question, presented by this record and re-examinable in this court, it certainly does not arise under a literal construction of the clause in article one of the constitution of the United States, concerning the obligation of contracts, which says, "No State shall pass any law, impairing the obligation of contracts." For, it does not appear in this case that the alleged exemption from taxation was denied in the State court on the ground that it had been repealed by any subsequent legislative action. The decision of the State Supreme court goes to the extent and no further, that the constitution of Illinois of 1848, the organic law of the State in force when the amendment giving the alleged exemption was passed by the legislature, contained limitations upon the powers of the State legislature with respect to such exemptions, and did not authorize the grant of an exemption from taxation of the unlimited character and extent, claimed by the plaintiff in error. Under this interpretation of the State constitution by the court of last resort in Illinois, it necessarily resulted that the exemption, to the extent claimed, was prohibited and void, and hence that there was no valid contract between the State and the University to be impaired.

nor any existing right to be protected under the Federal constitution; in other words, in the language of the opinion of the State Supreme court, "if it was not competent to make the exemption, the attempt was a nullity, and the case is not affected by the constitution of the United States."

If then there be any Federal question presented in this record, it must, therefore, be based on the claim that there was drawn in question the validity of an authority, exercised under the State, upon the ground of its repugnancy to the constitution of the United States; and that the decision was in favor of the validity of the authority.

The question is here raised, whether or not the record brought here properly presents any Federal question for review.

With respect to this, we submit that the record below does not show that any Federal question was specifically and distinctly presented and decided in the State courts. It was not set up in the pleadings, proceedings, or assignment of errors, either in the County court or on appeal in the Supreme court of the State, that the authority exercised was repugnant to the constitution of the United States, or that the right claimed was protected by that constitution. No such claim was specifically averred and relied upon. What there was averred is not specific enough to give jurisdiction to this court under section 709 of the Revised Statutes. The record only shows that the matters presented, examined and decided, were questions of local law, namely, the construction and scope of a provision in the State constitution and the extent that provision gave to exemptions from taxation.

If we correctly understand the decisions of this court upon this subject, the judgment of the State court cannot be reviewed here, unless the record below shows that there was drawn in question a statute of, or authority exercised under a State, upon the ground of repugnancy to the Federal constitution; or that a right was claimed, or in the language of section 709 "specifically set up or claimed" under that constitution; and that the decision was adverse to the right so claimed or in favor of the validity of the State law or authority in question. An examination of the reported cases will show that these questions were specifically set up in some form or other in the records brought here from the lower courts.

Home Ins. Co. v. City Council, 93 U. S. 118–121.
Edwards v. Elliott, 21 Wallace 532, 547.

In *Farney v. Towle*, 1 Black. 350, or 4 Miller 498, it is held: "In a writ of error to a State court jurisdiction does not exist here unless it appears that the point relied on was raised and decided in the State court; that its attention was called to the particular clause of the constitution of the United States on which the party relied, and to the right he claimed under it; and that with the question thus distinctly presented, the decision was against him."

To the same effect are—

Hoyt v. Thompson, exrs., 1 Black. 521.
Maxwell v. Newbold, 18 Howard 516.

In *Maxwell v. Newbold*, where the objection made in the record was, that "the proceedings were in conflict with the constitution and laws of the United States," and in *Messenger v. Mason*, 10 Wallace 508, that "the law was unconstitutional

and void," it was held that these averments were not sufficiently specific to raise the Federal question.

As was said, in *Edwards v. Elliott*, 21 Wallace 549-550, "It is not alleged that the law is repugnant to any particular provision of the constitution of the United States, nor that the court of original jurisdiction rendered any decision upon that subject. Something more must be set forth in such a pleading, to raise a Federal question, than the mere allegation that the law is invalid and unconstitutional, as such an assignment is satisfied if held to refer to the constitution of the State, in which event the question raised is not cognizable here under a writ of error to a State court."

And as was said also in *Murdock v. City of Memphis*, 20 *Wallace* 626, "Nor is the mere existence of such a question in the case sufficient to give jurisdiction—the question must have been decided in the State courts. Nor is it sufficient that such a question was raised and was decided. It must have been decided in a certain way, that is, against the right set up under the constitution of the United States."

So, in a case from Illinois (*Parmelee v. Lawrence*, 11 Wallace 36, 38), in which it was claimed that a statute of the State was upheld by the court, though repugnant to the Federal constitution as impairing the obligation of contracts, and in deciding which the State Supreme court in its opinion (48 Illinois 339) passed on the question whether the statute violated the obligation of a contract, it was held here, denying the jurisdiction, although the State Supreme court had certified to the question having arisen, "that the conflict of the State law with the constitution of the United States and a

decision by a State court in favor of its validity, must appear on the face of the record before it can be re-examined in this court. It must appear in the pleadings in the suit, or from the evidence in the course of the trial, in the instructions asked for or from exceptions taken to the rulings of the court."

Although it may not be necessary to point out or aver in the pleadings the special clause of the Federal constitution supposed to be infringed upon, yet it ought to appear in the pleadings by express averment or clear and necessary intendment that reliance was placed upon the protection supposed to be given by that instrument, and that the question was more than one arising under the constitution and laws of the State. The court must be able to see clearly, from the whole record, that a certain provision of the Federal constitution was relied on by the party who brings the writ of error, and that the right thus claimed by him was denied. *Bridge Proprietors v. Hoboken Co.*, 1 Wallace 143. It is not sufficient to show that the question might have arisen or been applicable to the case unless it is shown further in the record that it did arise and was applied by the State court to the case. (Id. 143.)

Testing the record of the court below, in the light of these decisions, nothing specific appears to show that the Federal question was properly raised and presented in the court of original jurisdiction. The objections, filed in the County court, and which answer for pleadings (Printed Record p. 7, folio 19), contain the only statements in the record, as to what the claim of the plaintiff in error was.

One of these, the third, simply states the passage of an act of the legislature of Illinois, exempting the lands of the plaintiff in error from taxation. The fourth alleges that by the terms of the charter and the amendment to it the State contracted with the corporation to exempt from all taxation every kind and description of the property of the corporation, and that the taxes complained of had been levied in violation of the charter and the amendment.

Neither of these objections sets up and claims either in particular or general terms even, that the authority exercised was invalid on the ground of its being repugnant to the constitution of the United States, or that any law had been passed impairing the obligation of the contract, or that any right guaranteed by the Federal constitution had been violated. No specific reliance upon the Federal constitution is asserted. For anything that appears, these objections may be held to refer to the constitution of the State, as to how far the exemption extended, and the power of the legislature under that instrument to contract for exemptions of this kind, and so have been satisfied.

If it should be claimed, that the language used by inference imported that what had been done impaired the obligation of the contract, and was therefore repugnant to some constitution, still the objection or assignment was not specific or broad enough to refer to the Federal constitution. For sec. 17 article 13 of the Illinois State constitution of 1848, in force down to the year 1870, and also that of 1870, article 2, section 14, ever since in force, both contain the provision, "no law impairing the obligation of contracts shall be made."

Under such an objection, how can it be decided, which of the two constitutions, the State or Federal, was referred to? It is only by virtue of the similar clause in the national constitution, that any pretence can be made in this case that there is a Federal question for re-examination here. Now, under the adjudications of this court, the objections made to the taxation, in the way they were framed, may refer only to the State constitution containing the provision above cited, and are fully satisfied by this reference to the State constitution, and consequently leave no room for holding this to be a Federal question.

Nor in the opinion of the State Supreme court does it appear that the question of the repugnancy to the Federal constitution of the authority exercised was decided. The opinion of the court is a construction of the provision in the State constitution concerning exemptions from taxation, and of the extent to which that instrument permitted the legislature to exempt property, and of the meaning and extent of the local law or amendment of Feb. 14th, 1855, under which the plaintiff in error claims its exemption. But even if it be held that the opinion did pass upon the Federal question, nevertheless the opinion will not suffice to raise the question for the purpose of giving jurisdiction, for as this court has frequently held, the opinion of the State court is no part of the record and cannot be looked into for this purpose, except by consent of counsel, which consent has not been yielded in this case.

Kennebec R. R. v. Portland R. R., 14 Wallace 25.
Insurance Co. v. Treasurer, 11 Wallace 208.
Parmelee v. Lawrence, 11 Wallace 36–38.

Gibson v. Choteau, 8 Wallace 314.
Rector v. Ashley, 6 Wallace 142.

It is not until the certificate made by the presiding judge of the State court is arrived at, that this record discloses any mention that it was claimed that the charter was a contract, guaranteed and protected by the constitution of the United States, and that such claim was decided adversely. The certificate does say this. (Record, p. 52, folio 127.) But the certificate is not supported by anything said in the decision or the opinion of the State court, nor does it say how the claim was made, and may only mean that the claim was made in argument of counsel, in the Supreme court, all of which is clearly insufficient. Evidently the certificate was made, as this court has had occasion heretofore to remark, by the Chief Justice of the State court upon the request of counsel and through an unwillingness to refuse the request. But however this may be, the certificate is not sufficient to give the jurisdiction, nor to raise the Federal question. The cases in this court are numerous to the effect that such is not its office.

Brown v. Atwell, 92 U. S. 329, 330.
Parmelee v. Lawrence, 11 Wallace 38, 39.
Railroad Company v. Rock, 4 Wallace 180.
Lawler et. al v. Walker, 14 Howard 189.

The record must show that the question was necessarily drawn in question and decided, notwithstanding the certificate of the presiding judge.

Neither in the Supreme court on appeal were there any assignments of errors, except of the most general character, nor

did they assert and rely upon any Federal question. The first one (P. Rec. p. 46, folio 109) assigns, that the court below erred in overruling the objections and in rendering judgment against the property; and the other assigns, that the judgment of the court below is contrary to law. These and nothing more. Such assignments of error alone are not specific enough to give this court jurisdiction.

Edwards v. Elliott, 21 Wallace 532, 549.

In *Railroad Company v. McClure*, 10 Wallace 511–512, on a bill to restrain the issue of county bonds the fact in issue was whether at the time the bonds were issued the constitution of Iowa gave counties the authority to issue them, and the State court enjoined their issue, so in effect deciding that the bonds were void under the constitution of the State existing when they were issued. After the affirmance in the Supreme court of this decree, the record brought here showed that the creditors made the question before the appellate court "that the decree of the court below violated that clause in the constitution of the United States, which provides that no State shall pass any law impairing the obligation of contracts, and the decision of the court was against the rights set up under that clause." It was held here, it appearing from the case that the bonds were held to be invalid on the ground that they were unauthorized and were forbidden by the constitution of the State, by this court as follows on p. 515: "The question of the validity of the bonds is not one of Federal jurisdiction. The constitution of the United States declares, that no State shall pass a law, 'impairing the obligation of contracts.' * * But the State *has passed no law* upon the subject, and the constitution of the State, which, as con-

strued by the Supreme court of the State, has worked the result complained of, was in force when the bonds were issued. The 25th section of the judiciary act specifies the questions of which we take cognizance in this class of cases, and expressly excludes all others from our consideration. It is clear that the question before us is not within the affirmative category."

In this case it is stated by the reporter on p. 512, 10 Wallace, that the Supreme court of Iowa, as appeared from its published opinion, considered that the decision of the lower court, which it stated had adjudged the bonds to be unconstitutional, and so null and void *ab initio*, (in other words, had adjudged there was *no* contract in the case), was not a decision against the clause of the Federal constitution concerning the obligation of contracts, and on this ground affirmed it.

In the case at bar, the opinion of the Supreme court of Illinois was purely and nothing more than an interpretation of the local constitution, and on the question whether or not there was a restraint in that State constitution upon the power of the legislature to exempt, in the case of educational institutions, property not actually used by such institutions for school purposes, but kept for sale or lease; and it found under this interpretation that the property in question in this case was not of the class which the constitution permitted to be exempted. These questions, it is respectfully submitted, were within the power of that court to settle authoritatively, and are not open to review in this court.

It follows from the adjudications in this court that if there is no Federal question presented in this record, the con-

struction given to the local constitution by the State Supreme court, there being none in conflict, is conclusive, and will be followed by this court, whether it approves of the interpretation or not.

Township of Elmwood v. Marcy, 92 U. S. 294.
State Railroad Tax Cases, 92 U. S. 576, 618.
Hamlin v. Meyer, 92 U. S. 111.
Slaughter House Cases, 16 Wallace 66.
Gut v. State, 9 Wallace 35.
Randall v. Bingham, 7 Wallace 523.
Town of South Ottawa v. Perkins, 94 U. S. 268.
East Oakland v. Skinner, 94 U. S. 257.
Adams v. Nashville, 95 U. S. 19.

II.

Upon the merits, the decision of the State Supreme court was right. The State constitution contained restraints upon the power of the legislature to exempt from taxation, and did not permit the exemption of the class of property in question in this case.

It cannot be claimed here with success, that any contract whatever has been impaired, if the organic law of the State, in force at the time, did not permit the legislature to grant exemptions of the extreme extent, sought to be asserted by the plaintiff in error.

What the people of the State in their constitution have restrained, the legislature cannot do; what has been limited in that instrument it cannot exceed. The agent cannot transgress his authority. The stream cannot rise higher than

its source. If the exemption clause in question violates the constitution of 1848, under which it was enacted, that clause must be declared void to the extent at least, in which it exceeds the constitutional permission, for want of power in the legislature to grant it. There is no contract to be impaired. This is elementary law and needs no citation of authorities.

The exemption clause never was a valid grant to this corporation, and therefore never was a valid contract with the State, in any sense, because the legislature had no power to grant an exemption from taxation of this broad and sweeping character. The power of the legislature, in this regard, was limited by the provisions of article nine of the constitution of 1848.

Sections 2 and 5 of art. 9, of that instrument ordained that "uniformity" and "equality" should be the rule for the taxation of property in Illinois, in language as follows:

"SEC. 2. The general assembly shall provide for levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his or her property."

"SEC. 5. The corporate authorities of counties, townships, school districts, cities, towns and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. And the general assembly shall require that all the property within the limits of municipal corporations, belonging to individuals, shall be taxed for the payment of debts contracted under authority of law."

These provisions were held by the State Supreme court in *Hunsaker v. Wright*, 30 Illinois 148, to have been

"manifestly inserted in the fundamental law, for the purpose of insuring equality in the levy and collection of the taxes to support the government, whether levied for State, county or municipal purposes. The design was to impose an equal proportion of these burthens upon all persons within the limits of the district, or body imposing them. Under these provisions the legislature has no power to exempt or release a person, or community of persons, from their proportionate share of these burthens."

The same court in *City of Chicago v. Larned*, 34 Illinois p. 275, said also concerning these provisions: "The framers of our constitution have taken unexampled pains by these separate sections to affirm the principles of 'equality' and 'uniformity' as indispensable to all legal taxation, whether general or local. Section five is believed to be peculiar to our constitution, and manifests the great anxiety of its framers to place every possible species of taxation upon the only equitable basis conceivable, and is believed to be more stringent than any provision in any other State constitution on the same subject."

The fundamental idea of that constitution, with respect to taxation, as often interpreted by the State court, was therefore that "equality" and "uniformity" were indispensable to all legal taxation, whether general or local. It was held, that "one person could not be compelled to pay a greater proportion of the taxes, according to the value of his property, than another."—*Supervisors v. C. B. & Q. R. R. Co.*, 44 Ill. 229. Under this rule a portion of the citizens of a town could not be exempted from the payment of taxes, while the burden was

imposed on others in the town; the constitutional provision for equality of taxation, based upon valuation, being violated by such exemption. *O'Kane v. Treat*, 25 Ill. 557.

Such is the uniform doctrine of the State Supreme court, and it has been recognized and followed in this forum.

Section 3 of Article 9 modified this general rule of equality and uniformity in taxation in a limited degree only. That section reads:

"The property of the State and counties, both real and personal, and such other property as the general assembly may deem *necessary for school, religious and charitable purposes*, may be exempted from taxation."

Beyond this, the legislature could not go, in granting exemptions from taxation.

Hence, under the constitution of Illinois, it follows, that all property in that State is subject to taxation, excepting the public property, and that which the legislature has deemed *necessary for school, religious and charitable purposes.*

It is upon the construction to be given to the latter branch of section 3 above quoted, that the power to exempt in this case hinges. Counsel for plaintiff in error will claim that the language used gave the legislature an unlimited discretion to exempt for school purposes all property owned by educational institutions, whether actually used in teaching or not. Counsel for defendants in error hold that the property to be exempted must be property actually used for school purposes, and that it must be "*necessary*" to the purposes; that the exemption is exceptional, and must be rigidly construed and narrowly

confined; and that in case of doubt, the doubt must be solved in favor of the State and against the claim for exemption.

In construing this section, it is to be presumed that the framers of the constitution, and the people who adopted it, must be understood to have employed words in their natural sense. (*Hills v. City of Chicago*, 60 Ill. 90.) It must be assumed that in the phrase "necessary for school purposes," they employed the word "necessary" in its ordinary, natural signification; in that sense, precisely, which the lexicographer, Webster, tells us it means, namely, "Something indispensable, essential; that cannot be otherwise without preventing the purpose intended."

The property of the State and counties, by this section, is permitted to be exempted without qualification. But in regard to schools, churches, and charitable institutions, the language used restricts the power to exempt, and confines it to what is "necessary" to school purposes; in other words, to property which is indispensable or essential to those purposes; that cannot be otherwise than exempt without preventing such purpose. Such appears to have been the intention of the framers of this constitution. If it was designed to allow the legislature unrestricted freedom in exempting private educational corporations from taxation, the clause in question would not have contained the limitations it does. It would rather have been drafted to read otherwise, as for example: "The property of the State and counties, both real and personal, and all property owned by schools, religious and charitable associations, may be exempted from taxation." As it was drafted, however, it is a *limitation* on the power of the general

assembly, as to the *purpose* and amount. As to the purpose, it is an *absolute* limitation; as to the amount, there is a discretion, but that discretion is limited by the word *necessary*. It is not, therefore, to be presumed that it was intended to allow the general assembly to exempt any more property of private schools than was necessary or essential to the school. Nor can it be presumed that property *not used* for the school is *necessary for school* purposes. Such property is not necessary for a school purpose, unless it is directly used for such purpose.

Vacant and unoccupied land held for investment and appreciation in value, is held with a view to future profit only, and can hardly be called property necessary for school purposes. So, lands like those in this case, which are leased to divers tenants on long leases, or are kept on the market for sale, constitute property which is used solely with reference to pecuniary profit through the receipt of rents in the one case, and in the other through an exchange of the land for money, or other valuable considerations. The proceeds of the renting or the sales, when received and applied directly to the support and maintenance of the school, may perhaps be exempt; but the lands themselves are not thus applied for such a purpose. Their immediate use is for something very different from the ordinary purposes of a school. The framers of this constitution, it is to be presumed, did not contemplate that institutions of learning would speculate in real estate, nor if they did, that their real estate used for speculation should not bear its proportion of the burden of taxation. If this were not so, then every speculator might resolve himself into an institution of learning, under the general incorporation

law, and by means of the pretense of a holding of lands for school purposes, acquire all the vacant land in an entire township or county even, and hold it free from taxation.

Any laxer construction of the State constitution than the one here contended for, would result in mischief. It would prove most mischievous and disastrous to the interests of the people of the State, if it should be held that legislative exemptions of thousands of acres of land could, under the constitution of 1848, be lawfully granted to private corporations, professing to be institutions of learning, for the purpose of enabling them to sell such lands and speculate in them, even though the proceeds might at some future day be devoted to education. Without the limitation contained in the section alluded to, there was nothing to prevent a venal or reckless legislature from passing by wholesale or in "*omnibus*" grants of such exemptions in enormous extent to corporations, assuming the guise of literary, religious, or charitable institutions. Without it, the just rule incorporated into the State constitution, that taxation shall be "uniform in respect to persons and property within the jurisdiction of the body imposing the same," would have been evaded. And thus there would have been revived in Illinois, under another form, "the subtle contrivance of the ecclesiastics in eluding the laws, by purchasing large tracts of land adjoining to churches and consecrating them by the name of church yards," and the like clerical finesse, which the statutes of mortmain aided by the reformation so effectually frustrated.

The legislature, it is clear, had no power to exempt from taxation any property whatever, excepting the public property,

and that particular species of property which they deemed *necessary* for *school*, *religious*, or *charitable* purposes. The clear inference from the language of the constitution is, that the property, lawfully to be exempted, must be used or held strictly for a *school*, *religious*, or *charitable* purpose, and for none other; not for profit, speculation, leasing or sale, but for the actual purpose stated in section three, as for example a school building for teaching, a church edifice for religious worship, an asylum or hospital building, for eleemosynary objects. Since the very letter and spirit of the State constitution are to the effect that taxation must be uniform upon all property within the State with but few exemptions and those of a limited and restricted kind, and under the rule that tax exemptions are not favored but are most rigidly construed, it is but reasonable to say that the section in question did not permit the exemption of any other property of schools and seminaries of learning than what was actually used and occupied for educational purposes. It is only a reasonable construction to say, that the terms "school, religious or charitable purposes" coupled with the word "necessary" mean, that the exemption can embrace only that property which is directly and exclusively used for one of those purposes, and that the discretion of the legislature extended only to the amount of this kind of necessary property.

It is not a sufficient answer to this construction, to say, that the lands in this record are now kept for sale or are leased for longer or shorter terms, and will be sold when the leases expire or when sales can be made, and that the rents or the proceeds of future sales will be applied to the support of this university, and that consequently this is a holding for

school purposes within the meaning of the State constitution. However it may be with the rents and funds when so actually applied, it is evident that these lands in their present condition are now not actually used by this university for school purposes, either for its school buildings and their appurtenances, or even as a farm for instruction in agriculture. On the contrary, they are occupied by the tenants of the corporation for dwellings, stores and other private ends, or are kept on the market for sale. They are not used strictly for mere school purposes, but constitute simply a means of raising hereafter a fund, which may at some future period be used for school purposes, and hence do not fall within the class of property, intended to be exempted by the legislature. The charter implies that the lands are not to be directly used for school purposes, but that the proceeds of their sale or letting shall be applied to the support of the institution. Section four (P. Record folio 36) providing for their disposal says: "The corporators may acquire real estate by purchase or gift, and may sell, let, place out at interest or otherwise dispose of such estate; and that the funds collected, or the proceeds of the property belonging to the institution shall be applied to erecting school buildings, supporting teachers and procuring books and apparatus." It limits the quantity of land which the corporation may acquire and hold by purchase at any one time to two thousand acres; but imposes no restrictions as to the amount of land the corporation may hold when acquired through gift, grant or devise. Under this section, the university can hold by gift, grant or devise, realty to an unlimited extent; and in addition to property obtained by dona-

tions, can also buy and deal in real estate, on its own account to the extent of two thousand acres at any one time.

Uniformity in respect to persons and property being the basis of taxation in Illinois, with the exception only of such property as is necessary to school purposes, under what authority, then does this university lay claim to the exemption of the particular lands, contained in this record? Can any such legislative grant of wholesale exemption from taxation, as this of "*all property of whatever kind or description*," be valid, under the limitations contained in the State constitution of 1848? Though the letter of the special charter may show such an exemption, it nevertheless in terms attempts to exempt far more property than what is actually used by the university, or is even necessary to its school purposes. This alleged grant exceeds all reasonable bounds. It must fall, or be confined to a legitimate scope. It must either be held to be wholly void, because in excess of the constitutional power, and not divisible so as to separate the valid from the invalid, or be held to be applicable to and to embrace only those special classes of property which are actually used for educational purposes by this university. If the proposition contended for, that such property only as is used *exclusively* for school purposes can be unqualifiedly exempted from taxation in Illinois, is solved here in the affirmative, it follows that the decision of this cause must be adverse to the plaintiff in error, for the reason that the lands taxed in this case are not so used. It sufficiently and clearly appears in this record, that the numerous tracts of land embraced in the judgment below and claimed to be exempt, are not used directly for school purposes, but are held by this institution for speculative objects, for sale on the mar-

ket, or are leased to persons in no manner connected with the administration of the affairs of this college. The list of these lands in the printed record contains no less than 427 separate and distinct parcels or tracts, varying in extent and value. They extend into three congressional townships and into two distinct municipal corporations, the village of Evanston and the village of Willmette. A bare inspection of this long list, extending from page 17 to page 34 of the printed record, will demonstrate the fact that these extensive and numerous parcels of realty cannot reasonably be occupied by the school buildings and grounds of this corporation. The evidence in the case also shows that all of them lie outside of, and are wholly disconnected with the grounds actually occupied by the school buildings, dormitories and campus of this university.

The stipulation in the record as to this is in substance as follows: (P. Rec. 11–12.)

1. That no part of the campus, or lands occupied by buildings or other direct appliances of education, of the university, is taxed or included in the lands and lots on which the judgment was rendered.

2. That all the lots and lands taxed and embraced in this judgment, excepting the improvements on the same, are leased by the university to different parties for a longer or shorter period; and all of said lands or lots are held for sale or lease.

The construction of the State constitution, here relied upon, is fully sustained by the leading case in the State Supreme court, the decision in which has been followed in the case at bar. In *N. W. University v. The People*, 80 Ill., on

page 335, the court says: "By the language of the constitu-
"tion we have quoted, while a discretion is conferred on the
"General Assembly, whether to exempt or not, and if it shall
"determine to exempt, the amount of the exemption, it is
"clearly restricted, in the exercise of this discretion, to
"property for schools and for religious purposes. Property
"for such purposes, in the primary and ordinary acceptation
"of the term, is property which is itself adapted to and
"intended to be used as an instrumentality in aid of such
"purposes. It is the direct or immediate use, and not the
"remote or consequential benefit to be derived through the
"means of property, that is contemplated. Houses, furniture,
"grounds, etc., to be actually used for educational purposes
"may be said to be for schools, or for school purposes; but
"property to be used in farming or manufacturing, or in
"trade is property for farming, for manufacturing or for trade,
"and the purpose to which the resulting profits may be
"devoted, does not change its character. So, property owned
"by corporations created for school, religious, or charitable
"purposes, and property for schools, or religious and charitable
"purposes, by no means necessarily mean the same thing.
"The ownership may extend to all kinds of property author-
"ized by the charter, whether it is such as is to be actually
"used in connection with the purposes of the incorporation or
"otherwise; but property for the purposes of the incorpora-
"tion, must be such as is to be used in connection with those
"purposes. An accurate description of the property, the tax
"upon which is in controversy, would seem to be, 'property
"'used for profit for the benefit of the university.'"

The Supreme court of the State has been consistent in

its construction of the legislative power to exempt from taxation. It has made no conflicting decision on that question. In the case at this bar, it followed and affirmed its conclusions in the case cited from 80 Illinois 333. So in another case, between the same parties, *N. W. University v. The People*, 86 Illinois, p. 141,* not brought to this court, the State court again held to the same findings, saying: "Our conclusion is, that it was not competent for the general assembly to exempt from taxation, property owned by educational, religious or charitable corporations, which was not in itself used directly in aid of the purposes for which the corporations were created, but which was held for profit merely, although the profits were to be devoted to the proper purposes of the corporation. To the extent, therefore, that the fourth section of the amendment to appellant's charter, approved February 14th, 1855, assumes to do so, it is to be considered void and of no effect, but no further."

And in another case, involving the same question, *Baptist Theological Union v. The People*,† the same court re-affirmed the cases, cited above, holding: "That when a charter granted in 1865, under the constitution of 1848, exempted perpetually the property, real and personal, belonging to the corporation, from all taxation and assessments, the property on which the tax was levied being obtained for the purpose of leasing, and being let on long leases, *and the income therefrom being used to maintain the institution*, the charter is unconstitutional and void in this respect."

---

* From advance sheets. Certified copy is filed.

† Not yet reported. Certified copy on file.

In *Illinois Central R. R. Co. v. Irvin*, 72 Illinois, p. 453, the court applied the principle to the charter of a railroad company, which exempted the corporation from taxation; holding, that the property which is necessary and indispensable to the construction and use of the road, will, alone, be within the exemption: all other property will be liable to taxation.

In a much earlier case, *First M. E. Church v. City of Chicago*, 26 Illinois 482, decided in 1861, the same court construed a statute of exemption in like manner. The case arose under the revenue provisions of the city charter of Chicago, which exempted from taxation such property as was exempted by law. The general revenue law of the State exempted from taxation "every building erected for the use of any literary, religious, benevolent, charitable or scientific institution, and the land whereon situated, not exceeding ten acres." The question made was, whether or not under these laws a Methodist church building, located in Chicago, and of which the third and fourth stories composed one large room, used exclusively by the church for religious purposes, while the first and second stories were rented for stores by the church society for compensation and the proceeds of the letting were applied to the religious purposes of the church, was wholly exempt from taxation. The court held that the church portion of the building was exempt, and that the stores owned by the society in the first and second stories were not exempt. In reply to the point made in opposition to the tax, that the rents and profits received for the use of the stores were required by the act of incorporation to be applied to paying the mortgage on the premises and to provide other places of wor-

ship in Chicago, and that consequently this was not appropriating the building to pecuniary profit but exclusively to religious purposes, the court said: "The meaning of the law is, as applied to religious buildings and furniture, that they must be used *directly* for *sacred* and not for secular purposes. It is *not enough, that the profits or income of the secular uses* are to be applied to sacred purposes. When money is made by the use of the building, that is profit, no matter to what purpose that money is applied."

In commenting upon this case in 80 Illinois, p. 337, the Supreme court say: "It will be observed that the words of the statute, there, in describing the building to be exempted, are, "any building for the use of any literary or religious society," etc.; and the argument that the fact that the profits derived from renting were devoted exclusively to religious purposes, showed that the rooms rented, as well as the balance, were for the use of the religious society, was equally as forcible and rested on the same premises as does the argument here that the property is for schools or the purposes of schools, although it is devoted to agricultural or other purposes entirely disconnected from schools, because the profits to be derived from renting are to be appropriated in aid of the University."

It may safely be said, that in Illinois no exemptions from taxation have ever been sustained, except those based upon commutation, that is, the payment of a pecuniary annual consideration to the State, or those granted for mere school property exclusively held and occupied for religious or chari-

table purposes. No decisions in the courts of that State can be found upholding exemptions on any other ground.

Thus it has been held:

"An effort, unconditionally, to make an exemption from the payment of taxes, without any pretense of commutation, by the payment of money, is unconstitutional."

Hunsaker v. Wright, 30 Illinois 149.

The cases holding certain exemptions constitutional are all of them cases, in which a percentage in money was paid annually in lieu of taxes, and where there was no absolute exemption from taxation without such payment, as shown in—

Illinois Cent. R. R. Co. v. McLean County, 17 Illinois 291.

Neustadt v. Illinois Cent. R. R. Co., 31 Illinois 485.

Board of Supervisors v. Campbell, 42 Illinois 491.

People v. Barger, 62 Illinois 453, 456.

The meaning of the exemption clauses, contained in section 3, article 9 of the State constitution of 1848, and to what extent exemptions for school and church purposes have been permitted in the general laws of the State. may be gathered in some measure from the various general enactments of the legislature concerning such exemptions. All of them confine the exemption to the actual use of the property for school or church purposes.

"This construction of the constitution by the legislature, as given in the acts passed by it, ought to have great weight, and should not be overruled unless manifestly erroneous."

Kendall v. Kingston, 5 Mass. 534.
Barnes v. First Parish, 6 Mass. 417.
Portland Bank v. Apthorp, 12 Mass. 257.
Commonwealth v. Parker, 2 Pick. 567.

The following are referred to as bearing upon this mode of construction, and as showing the policy of the legislature of this State on the subject of exempting property of literary institutions:

Act March 2, 1843, found in Adams' Real Estate Statutes, vol. 2, p. 1218, exempted grounds for the use of literary institutions from taxation so long as the land continued to be *used exclusively for such purpose.*

Act March 6, 1843, in force and unrepealed until March 30, 1872, provided: "That all colleges and seminaries incor- "porated, or which may hereafter be incorporated, by any act "or acts of the General Assembly of this State, be and the same "are hereby exempted from taxation, for State, county, or "other incorporation purposes, *upon all college and seminary "buildings, libraries, philosophical and chemical, or other "scientific apparatus, and the land on which such institutions "are located, not exceeding one hundred and sixty acres; pro- "vided that the property thus exempted shall be devoted ex- "clusively to the purpose of education.*"

1 Gross. Stat., p. 649, sec. 389.
Adams' Real Estate Stat., vol. II, p. 1218.

Act of March 3, 1845, Adams' Real Estate Statutes, vol. II, p. 1228, exempted the buildings of literary institutions and the land on which the same were situated, not exceeding

ten acres, and their personal property belonging to and connected with it, and set apart for their use.

Section 3, revenue act of 1853, unchanged until 1872, and in force at the time the amendment to the university charter was passed, exempted as follows: "All colleges, academies; all endowments made for their support; all buildings connected with the same, and all lands connected with institutions of learning, *not used with a view to profit. This provision shall not extend to leasehold estates of real property, held under the authority of any college or university of learning.*" 1 Gross' Statutes, Ch. 89 p. 581, Sec. 47.

Act of 1872: "All property of institutions of learning, including the real estate on which the institutions *are located, not leased by such institutions*, or otherwise *used with a view to profit.*" Revised Statutes, 1874, p. 857, Sec. 2.

The same restricted meaning is given to legislative acts, granting exemptions from taxes, by the current of decisions in other States. Though the cases cited relate to the construction of statutes, they are equally pertinent to the construction of like clauses in constitutions.

In *Proprietors of Meeting House v. City of Lowell*, 1 Metcalf 538, under a statute exempting all houses of religious worship, it was held, that the part of the building used by the church for religious worship was exempt, but that the part of their building, in the stories below, which the society rented for stores, and the income of which was applied to reducing the debt on the church building, was not exempt.

In *Pierce v. Inhabitants of Cambridge*, 2 Cushing, 611,

the statute exempted from taxation "the personal property of all literary, benevolent, charitable, and scientific institutions, and such real estate belonging to such institutions as shall be actually occupied by them, or by the officers of such institutions, *for the purposes for which they were incorporated.* The plaintiff was a professor in Harvard College, and the house and land occupied by him were the property of the college, but had been let to him at a rent of $400 a year, and the question was, whether this property was within the exemption of the statute. The court held it was not; that the occupation of a lessee was not such an occupation as was intended by the statute.

In *Washburn College v. Commissioners of Shawnee County*, 8 Kansas 344, the statute exempted from taxation "all property used exclusively for State, county, municipal, literary, educational, scientific, religious and charitable purposes." The plaintiff, a literary and educational institution, held a quarter section of land for the sole purpose of thereafter erecting its permanent buildings thereon, the land being then unimproved and uncultivated. The question was whether the land under such circumstances was exempt, and it was held that it was not.

In *Cincinnati College v. State*, 19 Ohio 110, it was held: "The property mentioned as exempt is only exempt from taxation, when *used exclusively* for the purposes mentioned. If used for other purposes, it is liable to taxation, no matter to what purposes the *proceeds* are in future to be applied."

In Ohio, where a professor in Kenyon college occupied a dwelling house on the college grounds, and resisted an entry

of the tax collector, on the score that college grounds were exempt from taxation by law, the court said: "It is not enough that the person, residing in the house, is one of the teachers; it must be shown that the building is occupied for literary purposes. A house merely occupied as a dwelling house, and not as a place where any of the exercises and recitations of the college are had, cannot be said to be a building 'occupied for literary purposes' within the meaning of the law."

Kendrick v. Farquhar, 8 Ohio 197.

In Indiana it is held: "The statute which exempts persons or property from taxation is to be construed strictly. The statute which exempts from taxation the lands whereupon every building erected for religious worship is situate, not exceeding ten acres, was not intended to include any part of the land which is diverted to secular uses for gain."

Orr v. Baker, 4 Indiana 86.

Methodist Church v Ellis, 38 Indiana 3.

Thus, in New Jersey, where a railroad corporation was exempted from taxation, in consideration of the payment to the State of an annual percentage, it was held that, notwithstanding the general terms of the exemption clause in the charter, taxes were lawfully assessed upon the real estate of the company, not actually used for necessary railroad purposes, but occupied by others, or by tenants; and that such lands were not within the operation of the exemption clause, the court assigning as a reason, that the exemption must be fixed where the necessity ends, and the mere convenience begins, and that the necessary appendages of a railroad com-

pany are one thing, and those appendages, which may be convenient means of increasing the advantages and profits of a company, are another thing.

State v. Newark, 2 Dutcher 520.

So, in *State v. Comr's of Mansfield*, 3 Zabriskie 510, the court applied the same doctrine to lands of the company, though they were occupied exclusively by the workmen and mechanics employed by the road.

In *State v. Flavell et al.*, 4 Zabriskie 370–380–382, the court held: "The lands of the society for establishing useful manufactories are, by virtue of the 4th section of their charter, exempt from all taxes except those raised for State purposes. The exemption only extends to such real estate as is held by them for the purposes of the incorporation; it includes their mills, mill lots and water power, but does not include mountain lots, farming lands or building lots. These are not incident to the purposes of the corporation." The exemption clause read: "All the lands, tenements, hereditaments, goods and chattels, to said society belonging, shall be and they are hereby declared free and exempt from all taxes, charges and impositions whatever under the authority of the State, whether for State or county uses, or for any other use whatever."

In *Railroad v. Berks Co.*, 6 Barr. 70, it was held: "It is only such property belonging to a railroad corporation as is appurtenant and indispensable to the construction and preparation of a road for use, that can claim to be exempt from taxation; such property as is only indispensable to the making of profits being liable to taxation." The warehouses, machine shops, wood yards, coal yards and shutes of the company were

held liable to taxation, notwithstanding the general language of the act, exempting all the property of the corporation.

In *Central Railroad Co. v. Burlington*, 28 Vermont, 196, the exemption in the charter was: "The stock, property, and effects of the company shall be exempt from all taxes levied by or under the authority of the State." The court, comparing this with other portions of the charter, held that the exemption covered only property taken by the company *in invitum*, and did not include all the property of which the company was the owner, and which it might hold under its charter.

To sum up, we claim for the defendant in error, that it is a reasonable and just deduction from the language used in the revenue provisions of Article 9 in the State constitution of 1848, when read in the light of the well settled rule that exemptions from taxation are not favored but are to be strictly construed in favor of the public, to hold, that the constitution of 1848 inhibited the legislature from exempting any and all property, owned by a college, and permitted it to exempt only that class of property, which is held and used exclusively for collegiate education. It is but a reasonable and just conclusion to reach, that it was not intended by these constitutional provisions to permit lands and property, not actually used for the immediate purposes of education, to be exempted, even though the proceeds of such property are designed to be applied in the future to the support or endowment of the institution. This, it is claimed, should be the interpretation of the constitutional clauses in question.

III.

The power to exempt from taxation should be construed favorably to the State, and most strongly against the corporation. In case of doubt as to the meaning, the doubt should be solved in favor of the State.

It is the settled doctrine of this court, that all rights which are asserted against the State must be clearly defined, and not raised by inference or presumption; and that if reasonable doubts arise as to the proper interpretation to be given to a legislative grant, those doubts are to be solved in favor of the State; and that when the language used is susceptible of two meanings, the one restricting and the other extending the powers of the corporation, that construction is to be adopted which works the least harm to the State. When a corporation claims an exemption from taxation, it must show that the power to tax has been clearly relinquished by the State, and if there be a reasonable doubt about this having been done, that doubt must be solved in favor of the State. Privileges are to be strictly construed against the corporation and in favor of the public.

The Binghampton Bridge, 3 Wallace 75.
Bailey v. Maguire, 22 Wallace 215.
Wilmington R. R. v. Reid, 13 Wallace 266.
Holyoke Company v. Lyman, 15 Wallace 511, 512.
The Delaware Railroad Tax, 18 Wallace 206, 225, 226.
Turnpike Company v. Illinois, 96 U. S. 63.

"In case a sentence is capable of having two meanings, a construction must be given favorable to the public."

Moran v. Court of Miami County, 2 Black. 722, 724.

Binghampton Bridge, 3 Wallace 75.

In *Tucker v. Ferguson*, 22 Wallace 528, 575, and other cases following that, this restrictive language is used:

"The taxing power reaches the interest of every member of the community. It may be restrained by contract in special cases for the public good, when such contracts are not forbidden. But the contract must be shown to exist. *There is no presumption in its favor. Every reasonable doubt should be resolved against it.* Where it exists, *it is to be rigidly scrutinized, and never permitted to extend, either in scope or duration*, beyond what the terms of the concession clearly require. It is in derogation of public right, and narrows a trust created for the good of all."

West Wisconsin R. R. v. Supervisors, 93 U. S. 597.

Morgan v. Louisiana, 93 U. S. 222.

Central R. R. v. Georgia, 92 U. S. 674.

Farrington v. Tennessee, 95 U. S. 686.

The general inclination of the courts is to hold that laws, which provide for the exemption of private corporations from taxation, though in terms including their entire property, will be construed to extend only to property which is needed in the performance of the public duties of the corporation, and that the exemption does not include property held for general investment or profit.

Cooley on Taxation, p. 151.

N. W. University v. People, 86 Illinois 141.

Meth. Epis. Church v. Chicago, 26 Illinois 487.
Lowell Meeting House v. Lowell, 1 Metcalf 538.
Kendrick v. Farquhar, 8 Ohio 197.
Cincinnati College v. State, 19 Ohio 110.
Central R. R. v. Burlington, 28 Vermont 196.
State v. Flavell, 4 Zabriskie 370, 380, 382.
State v. Com'rs of Mansfield, 3 Zabriskie 510.
State v. Mills, 34 N. J. 177.
Inhabitants of Worcester v. W. W. R. R., 4 Metcalf 564, 569.
R. R. v. Berks Co., 6 Barr 70.
Orr v. Baker, 4 Indiana 86.
Methodist Church v. Ellis, 38 Indiana 3.

These rules of construction, though applied to statutes in most of the cases cited, are pertinent in the interpretation of the constitutional provisions in question.

Under these rules, even if there should arise a doubt as to the true interpretation to be placed upon the language used —a doubt as to whether or not the legislature was limited in the power to exempt—nevertheless the doubt must be solved in favor of the State and against the plaintiff in error. Though it may be claimed here that the language of the clause, "and such property as the general assembly may deem necessary for school, religious and charitable purposes, may be exempted from taxation," when compared with the other clauses of the article imposing uniformity in taxation, is susceptible of two meanings, one restrictive and the other extensive, one giving the legislature unlimited discretion and the other confining such discretion to a particular purpose and to such property only

as is necessary through actual and exclusive use to the performance of that purpose; still under the settled rules of construction that interpretation must be applied and followed which favors the claim of the State in this case. The solution of the doubt, if there be any, must be that it was the intent of the people of Illinois in framing and adopting their constitution to permit the exemption of such property only, as is actually needed and used in the performance of the public duties of this university, and not to permit the exemption of such property as is held by it for investment and profit.

The question of the taxation of these extensive lands, leased and held for sale by this university, is of considerable importance to the State, to the county, the townships and common school districts, in which this real estate lies. Their annual taxation would produce an appreciable revenue, applicable to the liquidation of the public indebtedness and the proper support of the common schools. It is important to the inhabitants of the village of Evanston, the municipal corporation within whose corporate limits the Northwestern University is located. If the judgment below be affirmed, a large proportion of the entire area of real property included within the corporate limits of the village, as the list in this record discloses, will cease to escape taxation for State, county, township, district school, and local municipal purposes. This private, sectarian college, under the control and patronage of a religious denomination, owing no duties to the State, and never contributing from its wealth a single farthing in return for the alleged privilege of which it claims to be the beneficiary, will thus be compelled to pay its fair proportion of the public burdens, which under the constitution and laws of the State are imposed alike upon the

private citizen and all other corporations owning property in the same locality. The unequal assessment and taxation of property, which the inhabitants of this village have been compelled to bear, on account of the alleged immunity of these university lands from all taxation, will cease when this large quantity of real estate shall have been judicially held subject to the imposition of taxes for the payment of the municipal expenses of this village. By affirmance, equal privileges and equal rights will be guaranteed against the anomalous spectacle in a free State of a gigantic land corporation, dealing in real estate under the guise of a religious institution of learning. And thus, the just rule incorporated into the constitution of the State, that taxation shall be "uniform in respect to persons and property within the jurisdiction of the body imposing the same," with the limited exemption only of such property as is exclusively and directly used for school, religious or charitable purposes, will be maintained and no longer evaded.

GEORGE O. IDE.
For Defendants in Error.

March 21. 79. Ill. Supreme Court
Term 1878
Oct 1878

Supreme Court of the United States.

OCTOBER TERM, 1878.

No. 184.

THE NORTHWESTERN UNIVERSITY, PLAINTIFF IN ERROR,

vs.

THE PEOPLE, *EX REL.* HENRY B. MILLER, County Treasurer, &c., DEFENDANT IN ERROR.

STATEMENT AND BRIEF FOR THE DEFENDANT IN ERROR.

CONSIDER H. WILLETT,
County Attorney for Cook County, Ill.,
and Attorney for Defendant in Error.

Supreme Court of the United States.

OCTOBER TERM, 1878.

No. 184.

THE NORTHWESTERN UNIVERSITY, PLAINTIFF IN ERROR,

vs.

THE PEOPLE, *EX REL.* HENRY B. MILLER, County Treasurer, &c., DEFENDANT IN ERROR.

NECESSARY FACTS.

"The property of the State and counties, both real and personal, *and such other property as the General Assembly may deem necessary for school, charitable, and religious purpose, may be exempted from taxation.*" (Rev. Stat. Ill., 1874, p. 52.)

We shall take it for granted, and not discuss that this is a limitation of power. If all powers reside in the people, no expression can be made of such power, except the language speaking of the power must be the language of limitation.

Charter of plaintiffs in 1851, record, p. 12, sec. 4. * * "*Said corporation shall not be allowed to hold more than* 2,000 *acres of land at any one time*, unless the said corporation shall have received the same by gift, grant, or devise, and in such case they shall be required to sell or dispose of the same within ten years from the time they shall acquire such title, and on failure to do so, such lands over and above the forenamed 2,000 acres shall revert to the original donor, grantor, devisor, or their heirs."

REVENUE LAW OF 1853.

"All property described in this section, to the extent herein limited, shall be *exempt from taxation*, that is to say: First, *All lands donated for school purposes and not sold or leased, all public school houses*, and houses used exclusively for public worship, the books and furniture therein, and the grounds attached to such buildings necessary for the proper occupancy, use, and enjoyment of the same, *and not leased or otherwise used with a view to profit;* all colleges, academies, all endowments made for their support, all buildings connected with the same, and all lands connected with institutions of learning *not used with a view to profit. This provision shall not extend to leasehold estates of real property held under the authority of any college or university of learning.*"

Session Laws of Ill. of 1853, p. 5, § 3.

This revenue law is a mere declaration of the legislative meaning of the constitution of 1848. It could well be omitted from the statement of facts as irrelevant.

THE EXEMPTION CONTRACT.

"*That property, of whatever kind or description,* BELONGING TO OR OWNED *by said corporations shall be forever free from taxation for any and all purposes.*"

§ 4, Amend't to Charter in 1855, Rec., p. 15.

STIPULATION OF FACTS MADE JULY 1, 1875.

"* * * * That at the time, and before said taxes were assessed and levied on said lands, lots and blocks, the same belonged to, and were the property of, said Northwestern University and still belong to it." (Since granting the charter and its amendments, $200,000 have been expended by the corporation for school purposes.) * * * "And it is also admitted that all the lots and lands mentioned and described in said objections filed in said proceedings for judgment, wherein said taxes are levied, excepting improvements upon the same, are leased by said University to different parties for a longer or shorter period, and that all of said lands and lots are held for sale or lease for the

use and support of said institution, and the objects contemplated in said charter. And it is further admitted that *no part of the campus or lands occupied by buildings, or other direct appliances of education is taxed or included in the lands and lots on which judgment is as aforesaid asked.*" (Rec., p. 11.)

The constitution of Illinois, of 1870, has nothing to do with the question at issue, because by section 1 of its schedule, all vested rights were by express words reserved.

Rev. Stat. of Illinois of 1874, p. 82.

The same is true for the same reason of the Revenue Law of Illinois of 1872. (See p. 20, Edsall's brief.)

The foregoing contains all the constitutional and statutory laws, and all of the facts which concern the case at bar. A rehearsal of its facts is the strongest argument that can be made in its behalf. If the eloquence of its facts fail to convince the Court, it is needless to try to persuade it.

427 lots of various dimensions of land with a view to profit, lying in three congressional townships, in two distinct municipal corporations, are claimed to be outside the exemption contract by the defendant, and within it by the plaintiff.

A.

This Court has no jurisdiction.

1. Because no law has been passed impairing the obligation of any contract.

2. The assignment of error does not allege the violation of any contract by any law, and therefore does not embrace the evil of which complaint is made in plaintiff's brief.

3. The pleadings do not claim the impairing of the obligation of any contract, and such objection not being made in the court below upon the record, cannot be considered here. A question not in the record in the courts below

must be considered as waived, even though reference may have been made to it in the argument of counsel, and in the opinion of the court.

4. A mere breach of contract in Illinois by individuals or by the courts of Illinois, cannot give jurisdiction to this court.

B.

The merits of this case are with the defendant.

1. It mainly turns upon the construction of the word "necessary," found in the constitution of 1848. This is the pivot point of the case.

We think that 2,000 acres of land in actual use for school purposes and all their personal property fills the full wants of this word "necessary." This court, like the common people, must rely upon the meaning of this word by consulting the dictionary. "Something indispensible, essential, that cannot be otherwise without preventing the purpose intended." (Webster's Dictionary.) It is not all property "belonging to, or owned," or to belong to, or to be owned by this University, which could be exempted from taxation, within the limitation of the constitution of 1848.

The decision of the supreme court of Illinois assumes, that the buildings, *campus*, and apparatus in actual use are within the exemption contract, and therefore outside the record. The presumptions of the record are, that the 2,000 acres, or such parts of it as the wants of the University demand, are in fact not taxed, and of course in the exemption and out of the record.

We assume, without argument as axiomatic in constitutional law, that the provisions of the State constitution of 1848 concerning exemptions, were restrictions and limitations upon the exercise of its power.

The work of this court consists in ascertaining the extent and practical operations of such restrictions and limitations.

And except the court confines itself to this narrow channel, it wanders without the law and facts of this case; and in place of judicial construction we shall have judicial legislation.

2. *The construction of the exemption contract cannot extend beyond the words property "belonging to or owned" by the University when the exemption contract was made in* 1855.

An individual sells all of his estate "belonging to or owned" by him, and we seek the solution of the sale by evidence outside the deed to ascertain the actual estate, "belonging to or owned" by him at the date of the deed.

Such construction complies with all demands of the deed and its circumstances. The subject-matter of the deed is fixed and open to the knowledge of all who will learn its facts.

The leading case upon the authority of which all exemption contracts rest, declared, that where a State exchanged lands with an Indian tribe, and stipulated by a legislative act, that those conveyed to the Indians should not thereafter be subject to any tax, such stipulation was binding as a contract and available in behalf of those who subsequently by legislative permission became purchasers from the Indians.

New Jersey *vs.* Wilson, 7 Cranch, 164.

This exemption was impressed upon the subject matter of the contract. It reached the land and only such land as was actually at that time conveyed to the Indians. So in the case at bar, its exemptions if construed to the full extent demanded by plaintiff as embracing lands not in actual use for school purposes, must be confined to those "belonging to and owned" by the University when the exemption contract was consummated.

This is a liberal construction and more than meets the wants of establishing the exemption contract.

In Railroad *vs.* Md., 10 How., 337, the exemption was of fixed property used for a railroad, which being consolidated, held, the exemption was not extended, but confined to the property of the contract when executed. Without calling attention to the cases in detail, we believe all of them are found to have the exemption limited to the property or franchise existing when the exemption contract was made.

The majority of the State courts are reluctant to follow the reasons of the decision in 7 Cranch, 164, and the cases which follow it. This court will recognize this conflict between the State courts and this tribunal, and will reconcile such conflict to the extent of not pushing the doctrine further than judicial precedents demand.

A perpetual exemption of all lands and personal property "belonging to and owned" by the University when it made this contract, and an exemption of all its property in actual use for school purposes, ought to be a satisfactory solution of this problem to plaintiff.

Let us look at an opposite construction, which shall include in the exemption all property to be owned in the future by this University. Branches may be established at pleasure, provided "said institution shall remain located in or near Chicago." (§ 4 Charter; Record, p. 13.)

Contemporaneous Construction.

We thank the counsel for it, and ask the court to examine it. It will be discovered that the statute books have been only partially gleaned, and that in addition to educational exemptions, religious and charitable, were as broad in the language of the exemption contract as the one in question have been passed, covering the lands of every county in the State of Illinois, and embracing every religious denomination and every charity known to mankind prior to 1870.

It is no idle assertion, but a simple mathematical calculation, that the State of Illinois has not acres of land enough

to fill the requirements of all these exemptions, if such was their true construction. The absurdity of this construction destroys it.

3. *The contract existing in the exemption section has not been impaired.* Attention to the stipulation will establish this proposition.

4. *Where exemptions are claimed, they must be clear and unequivocal, and all doubts are to be solved in favor of the State and against the exemption.* Taxation is the rule; exemption the exception.

"The intention of the State to bind itself by an exception, must be clear, as all presumptions are against it." (Cooley Tax., 54.)

Taney, C. J., said in Railroad *vs.* Maryland, 10 How., 377: "this Court has held on several occasions that the taxing power of a State is never presumed to be relinquished, unless the intention to relinquish is declared in unambiguous terms."

Clifford, J., said in N. Mo., Railroad *vs.* Maguire, 20 Wal., 61: "the current of decisions of this Court warrant the conclusion, that, if an exemption be claimed it must be made to appear in clear, explicit, and unequivocal terms."

So. for Savings *vs.* Coite, 6 Wal., 594: A Connecticut savings bank had one half a million of deposits invested in United States bonds not taxable by act of Congress. An act of Congress taxed all deposits on a given day in each year at one per cent., and the Court sustained the tax, holding it not to be within the exemption. The language of Davis, J., in Bailey *vs.* Pacific Railroad, 7 Chicago Legal News, 266, and the opinion of Field, J. in Del. Railroad Tax, 18 Wal., 225, establish our proposition.

Having demonstrated beyond controversy that doubts as to the power of exemption destroys the exemption, or if the construction put upon the exemption be doubtful that such construction must fail; let us examine the peculiar phraseology of some of the exemption contracts and the decisions thereon.

We will first state the rules of Cooley on Taxations concerning exemptions.

"And upon the general subject of exemptions the following rules are deduced from the authorities:

"1. The general right to make exemptions is involved in the right to apportion taxes, and must be understood to exist wherever it is not forbidden. The right is supposed to be exercised on reasons of State policy, and presumptively such exemptions contribute to the general public benefit.

"2. Exemptions thus granted on considerations of public policy, may be recalled whenever the legislative view of public policy shall have changed.

"To the individuals, corporations, or associations benefited by them, they are to be regarded as favors or privileges, merely to continue during the pleasure of the sovereignty, and there can be breach of faith—certainly no want of power—in terminating them at any time.

"3. The intention to exempt must in any case be expressed in clear and unambiguous terms.

"Taxation is the rule, exemption is the exception.

"4. All exemptions are to be strictly construed. They embrace only what is within their terms." (Cooley Tax., 145.)

Exemptions confined to property "necessary to effect the purpose of the incorporation, but not other property held by it which, though convenient and tending to increase the profits, is not necessary to the corporation and its business." (Ib., 151.)

Though special assessments are a part of the taxing power, yet exemption from taxation in the strongest language will not include exemption from special asssessments for local improvements.

The following decisions establish the narrow construction of exemptions, which should always prevail.

An exemption "from any tax or public imposition whatever" held to apply only to "taxes or impositions levied or imposed for the purpose of revenue," and not to relieve the Cemetery from taxes to pave streets.

Baltimore *vs.* Cemetery Co., 7 Md., 517.

The real estate belonging to the board of public schools of the city of St. Louis is liable to be assessed under and by virtue of the ordinances of the city of St. Louis for the construction of sewers, paving, sidewalks, &c. (St. Louis Public Schools *vs.* St. Louis, 26 Mo., 468.)

An exemption from "taxes, charges, and impositions," held not to extend to an assessment for grading and paving a street. (Patterson *vs.* Society, 24 N. J., 385.) In State *vs.* Newark, 27 N. J., 185, the exemption was from "charges and impositions," held same. In Bridgeport *vs.* Railroad, 36 Conn., 255, railroad paid a tax, which by its charter was "to be in lieu of all other taxes" held liable for street assessment. In Buffalo City Cemetery *vs.* Buffalo, exemption from "all public rates and assessments," held not to extend to a paving assessment. Exemption from "taxation of every kind" does not exempt from an assessment for street improvements. (Sheehan *vs.* Good Samaritan Hosp., 50 Mo., 155.) The exemption of the property of soldiers in actual service will not exempt from a tax actually imposed before the soldier enlisted. (Tobin *vs.* Morgan, 70 Penn. St., 229.)

An exemption of "all houses of religious worship, and the pews and furniture within the same," will exempt only that part of a building occupied for religious worship, and if other portions are leased for business purposes, they are taxable. (Proprietors *vs.* Lowell, 1 Met., 538.) And this doctrine is not changed if all the income is devoted to religious purposes.

First Meth. E. Ch. *vs.* Chicago, 26 Ill., 482.

An exemption of such real estate of literary and scientific institutions "as shall be actually occupied by them or by the officers of such institutions for the purposes for which they were incorporated," held not to extend to a house built on the real estate of Harvard College, and leased by the corporation to one of the professors for a dwelling; the occupation of a lessee not being such an occupation as was intended by the statute.

Pierce *vs.* Cambridge, 2 Cush., 611.

Under the exemptions of the revenue law of Illinois of 1872, (Edsall's Brief, p. 18,) in the unreported case of People *vs.* Western Seamans' Friend, 88 Ill., opinion filed June 21, 1878, it appeared that sailors were charged the cost of board if they had money, otherwise it was a charity; court held its property subject to taxation.

Under an exemption of a school building occupied in part for a school, and in part for other purposes, is not exempt.

Wyman *vs.* St. Louis, 17 Mo., 335.

An exemption of every school-house and every building erected for the use of a college, incorporated academy, or other seminary of learning, held not to embrace a building used and occupied for a private boarding school. (Chegaray *vs.* New York, 13 N. Y., 220.)

To the same effect—

State *vs.* Ross, 24 N. Y., 497.

Bequests to colleges, &c., held to be taxable under the general statute taxing bequests, though after being received they would be exempt under a general provision exempting the property of such institutions.

Barringer *vs.* Cowan, 2 Jones' Eq., 436.

An exemption of universities, colleges, academies, and school-houses, held not to extend to an academy of fine arts, "as none can claim an exemption unless the exemption be

so clearly expressed in the statute as to admit of no other construction."

Academy of Fine Arts *vs.* Philadelphia, 22 Pa. Stat., 496.

We ask the careful attention of this Court to the principles of the above decisions, believing that if they are properly applied the judgment in this case must be affirmed.

An exemption from a State tax will not preclude the levy of a tax by a city.

Martin *vs.* Charleston, 13 Rich. Eq., 50.

In the case at bar we have State, county, township, village and school taxes. Under the above authority which is in harmony with the cases heretofore cited, this exemption should be confined strictly to the State taxes.

We have not time to elaborate the point, but assert our belief in its truth.

We have shown that if all reasonable facts, all reasonable constructions, all reasonable applications of the laws are admitted in this case, then, the only question which is vital and worthy of serious consideration is the extent of the exemption.

The interpretation of the law should be such as not to overturn the decisions of the State courts, and the reasons upon which they rest especially, as there is, practically, no conflict among the decisions of the State courts.

5. *If several constructions seem to fit the exemption such construction should be chosen as is free from any doubt if such exists.*

Let us look at the several constructions—

1. The plaintiff claims that all property to be acquired by it, shall be forever free from taxation.

It can hold this property with a view to profit till the next centennial, provided its officers proclaim that they are accumulating it to be used for the purposes of education.

The objections in this case cannot be exalted to the dignity of a constitutional question. The ingenuity of counsel will give birth to sophistry after sophistry, yet no constitutional child can be created by it. The taxing power of a State is absolute and uncontrolled, except so far as it is limited by constitutional provisions and commutation of taxes, which come within the control of contracts made with proper power and consideration. Within these limitations the General Assembly are the sole judges of the manner in which taxes shall be imposed and collected. There can be no tax except for a public purpose, so there can be no exemption except of property used for the very purpose of the exemption.

The objections which form the pleadings, the assignment of errors in the State court, and here, do not show that any Federal question is involved. Such being the condition of the pleadings, it is too late to raise such a question even if one existed.

An opinion of the State Court is no part of the record to give jurisdiction, and cannot do so when counsel insist that no jurisdiction exists. Nor can the certificate of the State judge create jurisdiction.

If the assignment of error fails to reach the vice of which complaint is made, the judgment of the State court must be affirmed. If there is no Federal question presented by the record, the construction given to the local constitution and laws by the State supreme court, there being none in conflict, is conclusive, and should be followed by this Court whether it approves of such interpretation or not.

We insist that a careful examination of the facts of the record will convince this Court that justice will be served best by an affirmance of the judgment.

Respectfully submitted,

CONSIDER H. WILLETT,

County Atty of Cook Co., Ill., and Atty. for Def't in Error.